



AGRICULTURAL LEGISLATION IN INDIA
VOL. V—VILLAGE PANCHAYATS

DIRECTORATE OF ECONOMICS AND STATISTICS
MINISTRY OF FOOD AND AGRICULTURE, GOVERNMENT OF INDIA

AGRICULTURAL LEGISLATION IN INDIA

Vol. V—VILLAGE PANCHAYATS



सत्यमेव जयते

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PREFACE

An attempt is made in this brochure to bring together all the existing legislation on village panchayats in different States. The need for such a publication has been felt for some time past because of the important role which village panchayats are being called upon to play in the sphere of rural reconstruction. It is hoped that a comparative study of the different Acts will stimulate interest in the subject and suggest lines along which the legal framework can be further improved.

The detailed work in the preparation of this brochure has been done in the Rural Institutions Branch of the Directorate. Any views expressed in the Introduction should not be taken to be the views of the Government of India.

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* This new enactment has been included at the final stage of printing. It repeals the Punjab Village Panchayat Act, 1939 (as amended), which was formerly in force in the State and has been commented upon in the Introduction.

† As English translation of Madhya Bharat Act is not available, it has not been included.

‡ Only portion relating to Panchayats has been given.

§ English translation of the Act as supplied by the State authorities has been included.

|| As this Act has been included in the final stage of printing, it has not been commented upon in the Introduction.

VILLAGE PANCHAYATS

INTRODUCTION

I. BACKGROUND

Village communities have been a feature characteristic of the agrarian economies of many countries including India. The Russian *mir*, the German *mark* and the mediaeval manor of England were notable examples of village communities in Europe.¹ These resembled in some measure the village communities in India. One important respect in which the Indian village communities differed from their prototypes in other parts of the world was their great enduring quality in the face of various political vicissitudes. These associations formed a bulwark of social solidarity and helped preserve the continuity of cultural development in India. Thus, in the words of Sir Charles Metcalf, "This union of the village communities.....has, I conceive, contributed more than any other cause to the preservation of the people of India through all the revolutions and changes they have suffered.....".

The functions performed by these village communities² were many and varied. Maintenance of law and order in the village, dispensation of justice, construction and maintenance of works of public utility like tanks and dams, provision of common amenities of village life as well as the raising of funds for discharging these responsibilities fell within their purview. So extensive, indeed, were the functions of village communities that they were often referred to as little 'republics'. Thus according to Elphinstone, these communities contained in miniature all the materials of a State within themselves and were almost sufficient to protect their members if other governments were withdrawn³.

The institution of village communities continued to flourish under the Hindu and Muslim Kings. Indian rulers did not interfere much with the internal affairs of the village. The position, however, changed radically with the advent of the British. The new rulers were interested in increasing their revenues to the maximum possible extent and this led them to make direct settlements with zamindars, individual cultivators, etc., in preference to village communities. This naturally meant a serious inroad into the autonomy of the village. But apart from this, the new rulers also set up a centralised system of administration and appointed their own agents to take over judicial and executive functions performed hitherto by village functionaries. As a result, the prestige of the village communities began to wane. The development of the means of communications, and the development of a spirit of individualism accelerated the process of disintegration.

But even the new rulers did not take long to realise the need for local institutions to support the administration. The earlier attempts in this direction were, however, confined to the setting up of some municipalities in towns. It was only in 1882 that the need for setting up local institutions pertaining to rural areas received serious attention. A number of Sub-District Boards and District Boards were set up. These attempts at introduction of rural self-government did not, however, meet with much success. In 1909, a Royal Commission on Decentralization was set up to examine the whole problem and to make comprehensive recommendations. The Commission made some interesting remarks about the failure of earlier attempts at introduction of rural self-government. According to

¹ It was probably the desire for mutual support in economic matters as well as for defence that originally brought into existence village settlements. In the earlier stages these unions were restricted to kinsmen but were enlarged subsequently to cover unions of neighbours (Encyclopaedia Britannica-Village communities).

² In India the term village *panchayat* is frequently used as a synonym of village community.

³ Elphinstone's Report on the Territories acquired from the Peshwa, —1819.

it, "The scant success of the efforts hitherto made to introduce a system of rural self-government is largely due to the fact that we have not built from the bottom the foundation of any stable edifice which shall associate the people known to one another and have interests which converge on well-organized objects". This Commission made comprehensive recommendations for the development of village *panchayats* both in the interests of decentralization as well as with a view to associating the people with the tasks of local administration. The suggestions made covered such matters of details as size of *panchayat*, external control, financial resources, etc. On the basis of these recommendations, the Provincial Governments were asked in 1915 to give a trial to a practical scheme of village *panchayats*, wherever possible.

A number of Provinces passed *Panchayats* Acts, particularly after 1919. Thus, Bengal passed the Bengal Village Self-Government Act, 1919 and Bombay passed the Bombay Village *Panchayats* Act, 1920 (repealed and supplemented by the Act of 1933). The other Acts passed included the Central Provinces Village *Panchayats* Act, 1920, the Madras Village *Panchayat* Act, 1920 (replaced and supplemented by the Madras Local Boards Act, 1930), the United Provinces Village *Panchayats* Act, 1920, the Punjab Village *Panchayats* Act, 1921, the Bihar and Orissa Village Administration Act, 1922 and the Assam Rural Self-Government Act, 1926. Certain Indian States, notably Baroda, Travancore, Mysore and Indore also passed legislation for setting up village *panchayats*.

After the attainment of Independence, the development of village *panchayats* has received a great fillip. This is due to a variety of reasons. First, the Directive Principles of State Policy (Article 40) lay down that the State shall take steps to organize village *panchayats* and endow them with such powers and authority as may be necessary to enable them to function as units of self-government. But, apart from the constitutional mandate, the need for an institution like the village *panchayat* has been keenly felt because of the very great increase in the developmental activities of the State. These require for their successful implementation the willing co-operation of the people. And this can best be secured by developing an institution like the village *panchayat*. That is why the Planning Commission have laid great emphasis on the development of *panchayats* in their Final Report. According to them, "*panchayats* have an indispensable role to play in the rural areas. As representing the best interests of all sections of the community, their status is unique".

Action has been taken by almost all the States during recent years to cope with their increased responsibilities in this sphere. Thus, steps have been taken by the State Governments to improve the existing legislation, where necessary, with a view to promoting quicker development of *panchayats* as well as entrusting them with greater responsibilities. In certain other cases (particularly in Part 'C' States) where no legislation hitherto existed, the necessary legislation has been enacted. Thus, all Part A States (excepting West Bengal which had no *panchayats* legislation and Bombay and Punjab*), have passed new acts, and have also subsequently amended them in certain cases. Legislation has also been enacted by a number of Part B States, *viz.*, Hyderabad, Jammu and Kashmir, P.E.P.S.U., Madhya Bharat†, Mysore, Saurashtra and Travancore-Cochin. Part C States ** (excepting Manipur

* Since going to the Press, Punjab has also passed a new Act, *viz.*, the Punjab Gram *Panchayat* Act, 1952 (Act IV of 1952), repealing the Punjab Village *Panchayat* Act, 1939 (as amended) which was commented upon in the Introduction. The text of this new Act has accordingly been included in the publication.

† As English translation of Madhya Bharat Act is not available, it has not been included in the publication.

** Out of Part C States, Coorg has its own Act since 1927 and Bhopal and Himachal Pradesh have recently passed new enactments *viz.*, the Bhopal State *Panchayat* Raj Act, 1953 and the Himachal Pradesh *Panchayat* Raj Act, 1952 respectively, both of which have also been included in the publication at first-proof stage. Out of remaining States, in Ajmer the U.P. Village *Panchayat* Act, 1920, in Bilaspur and Delhi, the Punjab Village *Panchayat* Act, 1939, and in Kutch the Bombay Village *Panchayat* Act, 1933, are in force. In Vindhya Pradesh, *Panchayats* are governed by an Ordinance.

and Tripura) have also provided for the establishment and regulation of *panchayats* in their areas.

In short, almost all the States have already set up the necessary legal framework for the establishment of village *panchayats*. Most of the States have also begun to push forward vigorously the organization of these local institutions.

An idea of the number of *panchayats* already functioning in some of the States during 1950-51 and 1951-52 may be had from the following table:—

States	Number of <i>Panchayats</i>	
	1950-51	1951-52
Bihar	762	1,119
Bombay	3,825	N.A.
Madras	481 (a)	N.A.
Orissa	532	N.A.
Punjab	6,244	6,765
U. P.	39,919	N.A.
Hyderabad	442	1,012
Jammu & Kashmir(b)	697	672
Mysore	12,498	N.A.
PEPSU	424	374
Rajasthan	2,475	N.A.
Saurashtra	401	839
Travancore-Cochin	280	550
Bilaspur	N.A.	400
Coorg	4	4
Delhi	13	N.A.
Himachal Pradesh	153	129

N.A.=Not available.

(a)=Major *panchayats*.

(b)=Figures relate to Samvat 2006 and 2007 respectively.

II. EXISTING LEGISLATION

The existing legislation is comprehensive in scope. All of the Acts cover important aspects like (i) *panchayat* area, (ii) constitution, (iii) functions and powers, (iv) financial resources and (v) external control. The provisions however vary in detail because of the differences in the conditions obtaining in different States. In the following paras. a comparative study of important provisions of the Acts has been attempted.

PANCHAYAT AREA

The Acts passed by Assam, Bihar, Punjab, U. P., Jammu and Kashmir and Travancore-Cochin empower the State Governments to declare any village or group of villages as the *panchayat* area, in which a *panchayat* is to be formed. On the other hand, some States have considered it appropriate to specify in their Acts the minimum size of population, which a *panchayat* area must have. Hyderabad has put this minimum population limit at 2,500, Bombay at 2,000, Orissa at 1,500, Madhya Pradesh at 1,000 and Madras at 500. In Madras, the *panchayats* are divided into two classes; those with jurisdiction over a population of not less than 5,000 and an annual income of not less than Rs. 10,000 are classified as Class I *Panchayats* and all others as Class II *Panchayats*.

CONSTITUTION

Broadly speaking the Acts reveal two different patterns of *panchayats*, organisations, which differ according to the powers conferred on the village population for supervising their activities. In Orissa, U. P., Pepsu and Saurashtra, *gaon sabhas* of all the adult residents of the area are to be constituted. These are to function through executive bodies of *panchayats* elected by them and their work supervised through general meetings held once or twice a year. In the latter three States, *gaon sabhas* are also to elect the Presidents and Vice-Presidents of the *panchayats* while in Orissa they will be elected by the *panchayats* themselves. In Bihar, *gaon panchayat*, consisting of all the adult residents elect only the *Mukhtiyas*, who appoint their own Executive Committees. In Assam, there are two kinds of *panchayat*, viz., (i) Primary *panchayats* and (ii) Rural *panchayats*; the former consist of all the adults residing in the area and elect their own Executive Committees; while the latter are composed of the representatives of Primary *Panchavats* elected one for every 200 members or fraction thereof. A Rural *Panchayat* elects both its President and a Vice-President while the President appoints his own *Mantri Sabha* to assist him in the discharge of his duties. The Primary *panchayats* are required to follow the directions given by the Rural *Panchayats* of their areas and may also act as their agents.

In other States, the system of organising *gaon sabhas* of all the adult population has not been followed, but only *panchayat* bodies consisting of members who may be elected or nominated or partly elected and partly nominated, as provided in the acts, are set up. In Bombay, Madhya Pradesh, Madras, Punjab, Travancore-Cochin, Mysore and Coorg, all the *panchayat* members are elected by the villagers, while the Presidents and also the Vice-Presidents, wherever provision is made for the latter, are elected, except in Madras and Madhya Pradesh by the members from amongst themselves. In Madras, the President is elected by the village population, while the Vice-President is elected by the members of the *panchayats* from amongst themselves. In Madhya Pradesh, the *Sarpanch* is elected by the electors of the *panchayat* area but Deputy *Sarpanch* is nominated by the *Sarpanch*. The *panchayats* in Hyderabad and Jammu and Kashmir consist partly of elected and partly of nominated members and have a *Sarpanch* elected from amongst their members.

A novel provision included in the Hyderabad Act is that when a Registered Reconstruction Society, or a Multipurpose Co-operative Society has more than half the householders in the village as its subscribing members, the Deputy Collector

may, to such extent as may be prescribed, empower such society to take charge of the *panchayat* of the village or, if there is no such *panchayat*, to perform the functions assigned to a *panchayat* under the Act. The Madhya Pradesh Act contains special provisions for the setting up of *panchayats* called *Adimjatiya Panchayats* in any area in the merged territories where the general provisions of the Act are found unsuitable because the majority of the inhabitants happen to be members of the Scheduled Tribes. A *Pargana Panchayat* has also to be set up by the State for each group of *Adimjatiya panchayats*.

The right to vote and to be a member of *gaon sabha* has usually been conferred on all adults of 21 years of age and above (in Coorg, however, the minimum age is 25) who have been residing in the *panchayat* area for a specified period. In Madras and Travancore-Cochin, all persons, whose names are included, (or are eligible for inclusion) in the electoral rolls for the State Legislative Assemblies, are allowed to vote. Any person, who is of unsound mind, guilty of corrupt practices or in arrears of taxes, tolls or fees to the *gaon panchayats*, etc., would lose this right under most of the Acts.

The minimum age for the members of a *panchayat* is the same as that for a voter, except in Madhya Pradesh, where it has been put at 4 years higher, *i.e.*, at 25 years. The conditions, which generally disqualify a voter from exercising his right to vote are also applicable in the case of membership of a *panchayat*. Besides, some of the Acts also lay down further disqualifying conditions for membership, such as, (i) holding of salaried post in the office of the *panchayat*, employment under the Government of some local authority, (ii) dismissal for mis-conduct from such service, and (iii) becoming ineligible for membership under any law for the time being in force.

Number of Members—The number of *panchayat* members is generally fixed according to the population of the area within maximum and minimum limits specified under the Acts. These limits vary from 3 to 7 in Punjab, 5 to 11 in Jammu and Kashmir, 5 to 15 in Madhya Pradesh, Madras and Saurashtra, 6 to 12 in Hyderabad, 7 to 15 in Bombay and Coorg, 10 to 20 in Mysore, 11 to 25 in Orissa and 30 to 51 (in addition to the President and Vice-President) in U. P. In Assam, the Executive Committee of Primary *panchayat* consists of 9 to 15 members including the President and the Vice-President and the *Mantri Sabha* of Rural *Panchayat* consists of 5 to 9 members besides its President. In Bihar, the Executive Committee appointed by the *Mukhiya* shall not be more than 15 or less than 7 (including the *Mukhiya*).

Terms of Office—The term of office for the *panchayats* and their office bearers has been generally specified as three years, but provision for its extension has also been made in some Acts. In Madhya Pradesh the term laid down is five years, in Mysore four years and in Coorg only two years. In Punjab, the Act enables the *panchayats* to elect their *Sarpanch* and *Naib-Sarpanch* every year. The membership of *gaon sabhas* is to be for the entire lifetime commencing from the minimum specified age, except when terminated by the disqualifying conditions.

Removal of Panchas—Provision for removal of *Sarpanch* and other *panchas* exists in a number of Acts. They can be removed when found guilty of misconduct, negligent towards duties, etc. In certain cases, the power for removal of *Sarpanch* vests in the *panchayat* who can do so by passing a motion of no-confidence. In other cases, the supervisory authorities (State Governments or local bodies) have been given this power. The *panchas* can cease to hold their office in the event of their failing to attend three consecutive meetings without any justifiable reason or in the event of their being disqualified otherwise. In this context, it may be noted that a unique feature of the Assam Act is the power vested in the Primary *Panchayat* to recall members of Rural *Panchayats* who are normally elected by them. A three-fifth majority is required for no-confidence motion of this type.

Conduct of Business—The Presidents of the *panchayats* generally carry on the day to day executive work of the *panchayats* subject to general direction and supervision from the latter. The Acts, in several States, however, provide for the appointment of Secretaries and Executive Officers to help them.

According to the Acts in force in Bihar, Orissa and U.P., two general meetings of *gaon sabhas* should be held every year, one after the *Kharif* season and the second after the *Rabi* season, for the purpose of discussing the budgets and main lines of policy pursued by the *Panchayats*. In Saurashtra, the village assembly is required to meet once in every three months. In Assam, it is necessary that an ordinary meeting of the Rural *Panchayat* should be held at least once a month and that of the Primary *Panchayats* (attached to a Rural *Panchayat*) once a year. The *Panchayat* meetings are required to be held at least twice a month in Jammu and Kashmir and once a month in Punjab, Hyderabad and Mysore. Some Acts also provide for calling of special meetings when requests to that effect are made by a specified number of Members.

FUNCTIONS

The functions assigned to the *panchayats* fall broadly into two classes, viz., (i) optional and (ii) compulsory. The former type of functions may be performed by them subject to their resources and local requirements. In addition to the functions specified in the Acts, the State Governments are generally empowered to delegate any functions, which they may consider appropriate, to the *panchayats*.

The statutory functions cover a wide field of activities. We may consider them under the following heads:—

- (i) Administrative
- (ii) Civic
- (iii) Social
- (iv) Economic
- (v) Statistics and Intelligence
- (vi) Judicial
- (vii) Police

Administrative Functions—The *panchayats* are generally required to assist the State Governments in their administrative work. For instance, in Bihar, Orissa, U. P. and Jammu and Kashmir any Government servant may call upon a *panchayat* to help him in his duties. In some of the States, *panchayats* are also authorised to exercise certain powers under some specified laws, such as the Cattle Trespass Act in Bihar, the Village and small Towns Patrol Act and rules framed under the Punjab Laws Act in Punjab, Cattle Trespass Act and Laws relating to export, import and gambling in Saurashtra. One of their functions under the Bihar, Punjab, U. P. and Saurashtra Acts, is lodging of complaints against the local officials such as the *patwari*, the *chowkidar* or the village constable, who fail to perform their duties properly.

Most of the Acts provide for the vesting of the management of public buildings and other communal property in the *panchayats*. They may be entrusted with the maintenance and regulation of the use of village commons and grazing grounds in the various Part A States (except Punjab), Hyderabad and Travancore-Cochin, with that of village forests in Bombay, Orissa, Madhya Pradesh and Madras, and with the control of public ferries in Bihar and Madhya Pradesh. In Madras, all unreserved forests in the village shall vest in the *panchayats* who will administer them subject to the overall control to the Board of Revenue. Likewise, in the hill

Pattis of Kumaon Division of U. P., they shall be responsible for the maintenance and control of Class II and *Kaiser-i-Hind* forests. Another specific provision of the Madras Act is that the Board of Revenue may transfer the management of charitable endowments to the *panchayats*.

Another important administrative function assigned in some of the Acts is that of collecting taxes, revenue, fees and other dues on behalf of the Government. The collections may be made by *panchayats* in Assam, Bihar, Orissa, U. P., and Jammu and Kashmir in return for specified percentages of collections for meeting the collection charges under contracts with the State Governments. In Saurashtra, the Government may make them responsible for revenue dues and may confer suitable powers on the Presidents to facilitate the collection work. The Madhya Pradesh Act has also recently included a detailed provision for the purpose. Under this Act, where *panchayat* undertakes the duty of collection of land revenue and other dues owing to the Government, the latter may direct that all or any of the duties of a mukadam or patel shall be discharged by such *panchayat* or the *Sarpanch* Deputy *Sarpanch* or Secretary and for this work such sums are to be paid to the *panchayat* as may be determined by the State Government.

Civic Functions—Among civic functions may be included such items as village sanitation, public health, water supply, transport and communications and rules governing buildings. Many of these were the first functions to be included in the Panchayat Acts, and are usually compulsory in nature.

Cleanliness and sanitation occupy an important place. The *panchayats* are generally required to lay down suitable standards of sanitation and have also been given powers to impose fines and penalties for their non-observance. Further, they have been specially entrusted with the carrying out of certain specific measures such as removal of rubbish heaps, jungle growth and prickly pears in Hyderabad, collection, removal and disposal of sweepings in Assam, Orissa, Punjab and U. P., provision of street drains and general drainage arrangements in Madhya Pradesh, U. P., Jammu and Kashmir, Mysore, Saurashtra and Travancore-Cochin; and the setting up of public lavatories and their cleanliness in most of the States. In certain States, the Acts also make the *panchayats* responsible for filling in of disused wells and insanitary depressions, pools and pits, reclaiming of unhealthy areas and putting them to proper use and preventing commission of nuisance or encroachment on public places and property.

Almost all the Acts refer to the maintenance of public wells, ghats, tanks, ponds, etc., for use by cattle and human beings. The Acts in Bihar, Madhya Pradesh and Hyderabad require the *panchayats* to take steps for preventing pollution of the sources of water-supply and also empower them to prohibit the use of polluted water till it has been properly disinfected.

Mention may also be made here of the powers generally given to the *panchayats* to prohibit the slaughter of animals in places other than those reserved by them for the purpose. In many States including Orissa, Madhya Pradesh and Mysore, they have also powers to regulate the tanning and dyeing of hides. In U. P. and Punjab, a limit of 220 yards from the residential area has been prescribed within which these processes cannot be undertaken. The Acts of Assam, Punjab, Madhya Pradesh and Saurashtra also provide for making suitable arrangements for the disposal of dead animals, unclaimed cattle and carcasses.

The public health measures specified in the Acts generally include arrangements for maternity and child welfare, development of medical facilities, control of epidemics and contagious diseases. Some of the Acts *viz.*, those in force in Assam, Bihar, Madhya Pradesh, Orissa, U. P., Mysore and Saurashtra specifically lay down the function of setting up of hospitals and dispensaries either separately or in conjunction with other *panchayats*. The Madhya Pradesh, Orissa and Saurashtra Acts refer in particular to making of arrangements for vaccination.

The *panchayats* are generally empowered to take measures for the supervision, maintenance, alteration and extension of village-boundaries and the *abadi*. The Saurashtra Act, in particular, mentions the erection of a fence or a wall around the village by its *panchayat*. In Assam, a *panchayat* may, with the previous approval of the State Government, direct that any existing village or villages be reconstructed or remodelled and provided for payment of compensation to the affected parties. In many States (*viz.*, Bihar, Madhya Pradesh, Madras, Punjab, Orissa, U. P., Hyderabad, Mysore, Jammu and Kashmir and Saurashtra), they have also been given powers for regulating the construction of buildings in the villages through the laying down of suitable bye-laws.

The construction and maintenance of village roads, streets, halting places, cart stands and encamping grounds as well as planting of trees on the roads and in public places usually figure among the functions. The *panchayats* in Madhya Pradesh may undertake the construction of public-ways and roads even outside their villages.

In Travancore-Cochin, it is the duty of the *panchayats* to make reasonable provisions for the preservation of all poramboke paths and lanes as well as canals useful for purposes of communications. In order to enable the *panchayats* to carry on these functions, the Acts generally provide for the vesting of village streets, roads and water-ways in them. In Bihar, Orissa, and U. P., for instance, the *panchayats* have been given control of both public streets and water-ways (other than canals) situated within their jurisdiction, which are not private property or under the control of State Government or other public authorities, and may do all things necessary for their maintenance and repair.

Social Functions—The social functions of *panchayats* are indicated by the provisions relating to education, recreation, social and moral welfare and help to the needy. In U. P., the *panchayats*, in so far as the funds allow, are required to set up primary schools for boys and girls, while in Saurashtra, they are to provide for free primary education on condition that Government shall pay half of the cost incurred. In Travancore-Cochin, they shall arrange for primary education while in Jammu and Kashmir the *panchayats* are required to secure compulsory attendance at schools of all school going children. Under the Assam Act, they may arrange for both basic and pre-basic primary education. The Saurashtra Act also provides for the setting up of special schools (including night schools) to propagate adult education. The provisions included in some other Acts such as those of Madhya Pradesh, Hyderabad and Mysore are only of a general nature. Almost all the States have included the development of libraries and reading rooms as one of the functions. The Act in Saurashtra, also mentions the establishment of museums and *Bal Mandir*.

The function of providing recreational facilities to the inhabitants has been referred to in almost all the Acts. The measures specified in this regard include establishment of public parks, *akharas*, playground and physical-culture centres; organisation of fairs and public festivals and provision of radio receiving sets. The *panchayats* in U. P. may arrange the playing of gramophone records for the entertainment of the villagers. The Saurashtra Act, which is more comprehensive in this regard, even mentions such items as propagation of dramatic plays, *garba* and rope dances and also various folk dances among the functions.

The Acts give scope to the *panchayats* for improving the social and moral conditions of the people by assigning to them such functions as removal of untouchability, discouragement of gambling, encouragement to arbitration in the settlement of disputes, eradication of corruption and bribery and rendering of relief to the poor, destitutes, sick and victims of floods and famines. The Madhya Pradesh and Mysore Acts assign to them the functions of encouraging prohibition and propagating welfare of Scheduled Castes and Scheduled Tribes respectively.

The *Panchayats* in Hyderabad, Mysore and Saurashtra are entrusted with the function of providing general amenities and relief to the travellers.

A significant function included in the Acts in force in Assam, Bihar, Madhya Pradesh and Orissa relates to the discouragement of child marriage usually by lodging complaints under the Child Marriage Restraints Act, 1929. In Assam, the *panchayats* can issue notice for the prevention of marriage between a couple, either of which is under the legal age and have powers to impose a fine upto Rs. 200 for its non-compliance. Carrying of propaganda against the large expenditure on marriages figures as one of the duties in the Saurashtra Act.

Economic Functions—There has been of late a growing tendency to increase the economic functions of *panchayats* under the Acts. These refer to the various aspects of rural economy *viz.*, agriculture, animal husbandry, subsidiary and cottage industries, marketing in rural areas, co-operative movement, etc.

Agricultural development has received attention to varying extent in practically all the Acts. The legislations in force in Assam, Saurashtra and Travancore-Cochin mention specifically the function of increasing the production of foodgrains and other crops. The Saurashtra Act refers also to the planning of the production of corn and cotton so that enough produce will be raised to meet the requirements of the *panchayat* area. Measures of various types have been specified for increasing agricultural production in the different Acts. These include, *inter alia*, supply of agricultural requisites, control of pests and diseases, improvement of livestock, construction and supervision of minor irrigation works, propagation of co-operative farming, provision of agricultural finance, carrying of propaganda and demonstration, etc. In this regard the Jammu and Kashmir Act goes further, in making it a duty of *panchayats* to bring under cultivation all the cultivable lands situated within its area and to see that no cultivable land remains fallow. In some Acts, however, only a general provision enabling the *Panchayats* to undertake such steps for agricultural development as they may like has been included. The main measures are briefly described below.

Taking first the provisions for the distribution of agricultural requisites, the preparation of village compost and its storage and distribution comprise one of the functions of *panchayats* in Assam, Madhya Pradesh, Orissa, Punjab, U. P., Hyderabad and Jammu and Kashmir. The Saurashtra Act refers in particular to the preservation and management of cow-dung and arranging of the supplies of ready-made manures like oilcakes, while the Madhya Pradesh and Travancore-Cochin Acts mention the maintenance of manure depots by the *panchayats*. The function of establishing granaries, grain banks, seed stores and agricultural implements' depots and regulating their distribution, has been specified in the Acts of Punjab, Madhya Pradesh, Orissa, U. P., Hyderabad, Saurashtra and Travancore-Cochin. The Jammu and Kashmir Act also enables *panchayats* to take measures for ensuring that the various types of agricultural requisites supplied by them are put to their legitimate uses.

Provisions for the protection of crops are included in the Assam and Bombay Acts. The provision in the latter State is of general nature, but the Assam Act specifically refers to the protection against damage by pests and locusts as well as scaring away of monkeys, squirrels and birds, etc.

In Travancore-Cochin, it shall be the duty of the *panchayats* to make reasonable provision for the carrying out of petty irrigation works. In Orissa, they may undertake minor irrigation works with the sanction of the prescribed authority. In Bihar also, they have generally been made responsible for the protection and improvement of the village irrigation works. The Madras and Hyderabad Acts, on the other hand, lay down that the State Government may transfer to the *panchayats* the work of protecting and developing irrigation and distributing water among the cultivators.

Co-operative farming, which offers a suitable solution to the agricultural inefficiency resulting from small size of holdings and meagre resources of the cultivators, has been mentioned in a number of Acts, such as those of Assam, Bihar, Bombay, Madhya Pradesh, Saurashtra and Travancore-Cochin. In Assam, *panchayats* may introduce co-operative farming when there is an agreement among the persons of the whole or a compact part of its area or if two-thirds of the population of such area agree to it. In the latter case, the *panchayats* may take possession of such area and the owner of the land not agreeing to enter into such co-operative farming shall be entitled only to have a reasonable rent. The U. P. Zamindari Abolition and Land Reforms Act, 1951, also makes *gaon sabhas* responsible for introduction of co-operative farming. In Hyderabad and Mysore, although the Acts make no specific mention of co-operative farming, promotion of agriculture on co-operative basis has been laid down as one of the functions.

Mention may also be made here of the powers given to the *panchayats* in Assam for preventing the growth of uneconomic fragments. They may, after a decision to that effect by a two-thirds majority vote at a meeting of the people likely to be affected, prohibit the transfer or partition of any land if it results in a fragment of less than 12 *bighas*. They can also intervene in case the co-sharers do not agree on keeping the property in common or intact. The affected parties have no right of appeal against any order of the *panchayat* in this regard. The Act also prohibits transfers of lands to any person not residing within the *panchayat* area without the sanction of the *panchayat*. Another unique feature of this Act is the provision enabling the *panchayats* to establish new villages for persons having no lands or owning only uneconomic holdings by taking over Government lands.

Provision for propaganda and extension work has also been made in some of the Acts. Thus, the maintenance of demonstration and model farms and the organisation of crop experiments figure among the functions in the Acts of Assam, Bombay, Madhya Pradesh, Travancore-Cochin and Saurashtra. The Saurashtra Act also makes a specific mention of the organisation of propaganda and training facilities for the cultivators.

The function of providing credit facilities has been referred to in some of the Acts. In Assam, for instance, *panchayats* may sponsor rural co-operative organisations for credit and thrift and may require the residents of the *panchayat* area to make use of such organisations. The Act in Saurashtra requires the *panchayats* to make arrangements for providing loans on co-operative basis. The function of developing agricultural credit and taking measures designed to relieve rural indebtedness is also listed in the Acts in force in Bihar and Madhya Pradesh. In Orissa and U. P., the *panchayats* may assist and advise the agriculturists in obtaining Government loans and in making repayments thereof as well as in the liquidation of old debts.

Agricultural prosperity being closely dependent upon the quality and efficiency of livestock, it is significant that the Acts generally entrust the *panchayats* with the making of suitable arrangements for proper care, breeding and improvement of livestock in their areas, arranging of suitable medical facilities and setting up of veterinary dispensaries. The *panchayats*, under the Assam, Hyderabad and Travancore-Cochin Acts, may maintain in particular stud bulls for breeding purposes. The Assam Act further lays down that they may require all the residents to castrate their livestock and inoculate them when epidemics break out. The Acts in Madhya Pradesh and Orissa specifically refer to the arrangements for cattle vaccination; those in Bihar and Mysore to the prevention of cattle diseases and that in Travancore-Cochin to the reduction of cattle mortality.

Village Industries—In most of the Acts, the function of developing and encouraging cottage and village industries has been mentioned. The measures indicated in some of the Acts in this regard envisage, *inter alia*, the development of

suitable co-operatives and holding of exhibitions. In Assam, for example, *panchayats* may establish with the Government Departments one or more trading organisations for the promotion of cottage industries, sale of raw materials and marketing of the finished products. They may even require professional or casual weavers, spinners and other craftsmen to form themselves into Union, whom they may help by granting subsidies and offering markets for the finished goods. Similarly, under the Saurashtra and Travancore Cochin Acts, the *panchayats* may take steps to encourage cottage industries on co-operative basis. Provisions in regard to organisation of industrial shows and exhibitions are contained in the Acts in force in Assam, Madhya Pradesh, Orissa, Saurashtra and some other States.

Provisions for the regulation of dangerous and objectionable trades and practices by the *panchayats* have been incorporated in the Acts by a number of States including Bihar, Madhya Pradesh, Orissa, Punjab, Hyderabad, Mysore and Travancore-Cochin. Under the Madras and Travancore-Cochin Acts, no place shall be used for purposes likely to be offensive or dangerous to human life, wealth or property, and no factory or workshop using power will be established without obtaining licences from the *panchayat*. In Orissa, a *panchayat* can, with the previous sanction of the State Government, notify that no place within its jurisdiction shall be used without a licence granted by it and except in accordance with the conditions specified in such licence, for any one or more of the specified industries. Under the Mysore Act also, no place, within the jurisdiction of a *panchayat*, shall be used as a dairy, hotel, restaurant, bakery, boarding house, lodging house (other than students hostel under public or recognised control or a *dharamshala* or manufacture of ice and aerated water) etc., without a licence from the *panchayat* and except in accordance with the conditions specified therein. The Saurashtra Act also empowers the *panchayats* to take measures for regulating hostels, sweet shops and hotels.

Marketing facilities—The Acts generally provide for the establishment, maintenance and regulation of *Hats*, Markets and *Bazars* on the village sites. Significant sections in this respect are those found in the Orissa, Saurashtra and Travancore-Cochin Acts, which specifically mention the development or marketing and trade on co-operative lines. The *panchayats* may organise co-operative stores under the Bihar Act, and may distribute necessities of life through co-operatives in Travancore-Cochin. The Madras and Travancore-Cochin Acts prohibit the establishment of new private markets as well as continuation of old markets except under licences issued by the village *panchayats*, which would be subject to conditions prescribed for supervision, sanitation, water supply, rents and fees, etc.

With a view to regulating the weights and measures in the village market in the Madras State, the executive authorities of the *panchayats* may examine them under the Indian Penal Code. Weights and measures may be regulated by *panchayats* in Travancore and Cochin under the Weights and Measures Act.

Statistics—*Panchayats* can play a useful role in the collection and maintenance of statistics. Thus, under the Acts relating to Assam, Bihar, Orissa, U. P., Saurashtra and some other States, they are generally required to help in the holding of population and livestock censuses and in the compilation of data on crops and agriculture in the prescribed manner. The maintenance of up-to-date statistics of unemployment is specified as one of the functions in the Assam, Madhya Pradesh and Orissa Acts, while under the Saurashtra Act they may maintain lists of cultivators, merchants, artisans, thieves, robbers, *gundas*, etc. In Punjab, the *panchayats* are to undertake registration of the sales of cattle, camels, horses, etc., on voluntary basis. Almost all the acts entrust to the *panchayats* the duty of registering births and deaths and maintaining up-to-date vital statistics in the prescribed manner. Under the Acts passed by Madhya Pradesh, Orissa, U. P., Jammu and Kashmir and Saurashtra they are also required to maintain registers

for the registrations of marriages. In addition, a number of Acts contain a general clause requiring the *panchayats* to collect and furnish such information to the State Government or any other superior local authority as may be required by them.

Judicial Functions.—One of the most important functions performed by the *panchayats* is the administration of justice. Accordingly, the Acts passed by Part A States barring Madras and those by Hyderabad, Jammu and Kashmir, Pepsu and Saurashtra contain detailed provisions for the discharge of judicial functions. In Punjab and Jammu and Kashmir, these functions are to be performed by the ordinary village *panchayats*. In other States, separate independent bodies are to be set up, which procedure incidentally conforms to the prevailing ideas of separating judiciary from executive. A *Panchayati Adalat* in Assam and a Village Bench in Bombay consists of 5 members each, a *Nyaya Panchayat* in Madhya Pradesh at least 5 members—a *Gram Cutcherry* in Bihar of 15 members, and a *Nyaya panchayat* in Hyderabad of 3 to 6 members. In Saurashtra, the membership of a Village Bench will be as fixed by the State Government from time to time. In Assam, Bihar and Bombay, these bodies have elected members while in Madhya Pradesh, Hyderabad and Saurashtra, members are appointed by the Government from amongst the *Panchas* of the *panchayats*. The quorum requires the presence of two members in Hyderabad, three in Bihar, Bombay and Madhya Pradesh, and at least half of the total number of members in Saurashtra. A different procedure is followed in the Orissa and U. P. Acts. In these States, *Adalati Panchayats* and *Panchayati Adalats* respectively composed of 3 and 5 members from every *gaon sabha* are to be set up for every circle. Out of the panel so formed, a bench of three members in Orissa and 5 in U. P. will try the judicial cases.

The procedure prescribed for conducting trials is much simpler than followed in the law courts in urban areas. The complaints may be made orally or in writing and would generally be disposed of in an informal manner. No legal practitioner is allowed to appear on behalf of parties to the dispute; but any relation, servant, or dependent, who is not a pleader, and has not been so in the past, may appear as an agent on behalf of a woman or a person not able to appear for obvious reasons.

These *panchayats* have been given powers to try both criminal and civil cases of certain nature. In most of the States, they are authorised to try minor criminal cases such as those emanating from theft, simple hurt, cattle trespass, public gambling and specified sections of the Indian Penal Code. The Assam Act, however, confers the powers of criminal courts on them, the Bihar Act those of a Third Class Magistrate while the Jammu and Kashmir and Hyderabad Acts, give powers in regard to certain sections respectively of the Ranbir Penal Code and the Hyderabad Penal Code. As regards civil suits, they can try cases involving money due on contracts and recovery of movable properties, provided value involved does not exceed Rs. 250 in Assam, Rs 200 in Punjab, Rs. 100 in Bihar and Madhya Pradesh, Rs. 50 in U. P. and Rs. 25 in Bombay and Orissa. The Acts usually enable the State Governments to confer powers on the *panchayats* for trying suits involving higher money values.

The Acts generally lay down that, whenever possible, an attempt should invariably be made to reach a compromise between the parties. Punishments can be imposed generally in the form of fines. Provisions have been included whereby these fines, if not paid within the prescribed period, may be recovered with the help of superior authorities, who may cause their recovery to be made as arrears of land revenue. The Orissa Act also provides for imprisonment in case of non-payment of fine for a period upto 14 days, which may be further extended upto one month with the previous approval of the Government.

Generally, these bodies enjoy exclusive jurisdiction in the spheres of their activities. When, however, there is a *prima facie* case of mis-carriage of justice the superior local authorities like Munsifs, Sub-Divisional Magistrates and District

Magistrates or other prescribed authorities may call for the records of proceedings on their own initiative or on receipt of an application from any of the interested parties. After examination of the records, they may revise or quash the orders passed by these bodies or may order a re-trial. In Bombay and Hyderabad an appeal may be made to a District Court and in Saurashtra to a Sessions Court within 30 days from the date of decree or order.

Police functions—To facilitate the maintenance of law and order and to help the *panchayats* in the proper discharge of their duties, the Acts in force in Assam, Bihar, Orissa, Punjab, U. P., Mysore and Saurashtra have made specific mention of the police functions of the *panchayats*. For this purpose, they generally allow them to constitute some kinds of village volunteer forces. These forces are named differently under the Acts, viz, Village Volunteer Force in Assam, Bihar and U. P., *Gram Sevaks* in Orissa, Village Guards in Mysore, and Home Guards and *Seva Dals* in Saurashtra. The relevant provisions in the Bihar Act lay down that for general watch and ward and for meeting cases of emergency like fire, breach of an embankment or dam, outbreaks of epidemics and occurrence of burglary or dacoity, the Executive Committee may organise a Village Volunteer Force, which shall consist of all able bodied males of the village between the ages of 18 and 30 years and shall be under the command of a Chief Officer. The Bihar Government may make rules for the training, discipline and good conduct of the members of the force and for the grant of gratuities to persons who give valuable information or render effective assistance to the force. The Act also provides for assistance by the Volunteer Force of one village to that of another village. The Home Guards in Saurashtra, are specifically required to make recommendations for the issue or cancellation of arms permits which the *Seva Dals* shall work *inter alia* for the promotion of communal unity, the discouragement of child marriage and taking of huge sums of money for brides and bridegrooms. In Orissa, in addition to *Gram Sevaks*, the *Dafadars* and *Chaukidars* who may be appointed for the village by the District Magistrate on the recommendation of the *Panchayat*, shall also be responsible for performing, among others, such duties as reporting of offences to *Sarpanch* and Police Stations, arresting of offenders, etc.

FINANCIAL RESOURCES

If the *panchayats* are to perform the numerous functions entrusted to them successfully, it is essential that they should have adequate funds at their disposal. Thus practically every Act provides for the institution of a *panchayat* fund under the control of the *panchayat*, to which are to be accredited all its money receipts and from which shall be met all its expenses.

The Acts also generally provide for the annual preparation of budgets by the *panchayats* and indicate the procedure for their approval. The *panchayats* are required to submit the budgets for approval to Deputy Commissioner or Sub-Divisional Officer in Assam, District Local Boards in Bombay, District Council in Madhya Pradesh, District Magistrate in Orissa, Deputy Collector in Hyderabad and the prescribed authorities in U. P., Jammu and Kashmir and Travancore-Cochin. The budgets before being so submitted are to be explained in Bombay and Madhya Pradesh at a meeting of adult residents of the village. In U. P. the *Gaon Panchayat* has to lay the budget before the *kharif* meeting of the *Gaon Sabha* and after it has been passed by the same, it is to be submitted to the prescribed authority for approval. A *panchayat* in Jammu and Kashmir is also required to call a meeting of its voters once a year for discussing the budget but it shall effect only after approval by the prescribed authority. The District Boards in Bombay, District Magistrates in Orissa and the Deputy Commissioners in Mysore have been given special powers for taking measures to raise the incomes of the *panchayats*.

The *panchayats* are allowed access to varied sources of income, e.g., taxes, cesses, fees, fines, grants, contributions, loans, etc. In some of the Acts, as for example those in force in Bihar, Madhya Pradesh, Madras and Mysore, tapping of some of the sources and giving of certain grants by the State have been made compulsory, while other sources may be utilised if their financial needs so require. In Punjab a *panchayat* may, with the previous sanction of Government, levy any tax which the State Legislature has power to impose.

To take taxation first, the Acts generally make a distinction between taxation of agricultural and non-agricultural property. In regard to the former, the *panchayats* are permitted to levy a cess on land revenue or rental value of land under many Acts. The maximum limit for such cess is fixed in Assam at 1 anna per rupee of land revenue or 1 anna per standard *bigha*; in Madhya Pradesh at 6 pies per rupee of land revenue; in Madras at 3 pies per rupee on rental value of land and in U. P. at 1 anna per rupee of rent payable by the cultivating possessors or on the rental value of *Sir* and *Khudkasht* land and half anna per rupee on rent payable by the proprietors and under-proprietors. The Travancore-Cochin Act which also authorises the *panchayats* to levy cesses on lands, if necessary, does not specify any maximum limit for the purpose. In Assam, the *panchayats* may also levy tax on cultivable lands lying uncultivated.

Some of the Acts instead of providing for direct collection of cesses on land revenue and rental value of land by the *panchayats*, require the State Governments to give to them a specified percentage of land revenue or cesses collected by them. In Bombay, the State Government are required to give to the *panchayats* every year a grant equivalent to 15% of ordinary land revenue or 25% of local land cess realised in the previous year in the village whichever is greater. In Madras, the *panchayats* are entitled to one fourth of land cess levied in the village under Section 78 of the Madras District Boards Act, 1920. It is further provided that the State Governments shall distribute annually at least 12½% of the total land revenue including water cess as grants to Class II *Panchayats* on the basis of their population, but during the year in which the provisions of the Act are brought into force and the next succeeding year, the Government may set apart for this purpose such sum as they deem fit, not being more than 12½% of the total land revenue collected during that year. In Orissa, one third of local land cess and additional cess, if any, levied under the Bihar and Orissa Local Self Government Act, 1885, has to be distributed among the *panchayats*. Among Part 'B' States the *panchayats* in Hyderabad and Mysore are entitled respectively to 15% and 12½% of land revenue collected by the State in their respective areas. The State grant in Travancore-Cochin shall be equal to the collections made by the *panchayat* subject to a maximum of Rs. 2,000.

Regarding taxation of non-agricultural property, provisions for compulsory taxation of all immovable property situated within the *panchayat* area has been made in the Bihar Act. In Orissa, also, the *panchayat* is required to impose a tax upon the owners and occupiers of all immovable property within its local area according to the circumstances and the property of such owner and occupier. In Bombay and Saurashtra such a tax is to be levied on houses including farm buildings and on land, not subject to payment of agricultural assessment, in such manner and at such rates as may be prescribed. The *panchayats* in Madras are also required to impose a house tax and in Madhya Pradesh a tax on all buildings and non-agricultural lands. The Acts passed by Assam, U. P., Hyderabad, and Mysore also permit the imposition of taxes on buildings. The tax in Hyderabad is to be on the capital value of buildings, but cannot be less than annas four or more than Rs. 5 on any building in a year while in Mysore it cannot be more than maximum prescribed.

A large variety of commercial taxes are permitted under the Acts. The important types of taxes included are (i) general profession taxes in Madras, U. P., Hyderabad, Mysore and Coorg, (ii) taxes on callings other than agriculture in Bihar and Madhya Pradesh, (iii) taxes on shops, *bazars* and markets in Bihar, Mysore and Saurashtra, (iv) fees on goods for sale in Bombay, Madhya Pradesh and Madras, (v) Octroi duties in Bombay and Saurashtra, (vi) toll tax in Madhya Pradesh, (vii) cart tax in Mysore, and (viii) general vehicles tax in Bihar, Madras and Saurashtra. The Assam, Hyderabad and Coorg Acts also allow imposition of fees for cart and cattle stands; Assam, Madhya Pradesh and Orissa Acts permit levy of fees for the registration of animals and the Orissa Act for slaughter of animals in the slaughter houses.

Panchayats, in some of the States, have also been permitted to levy taxes on ceremonies and social functions. Examples of these types of taxes are provided by the permission given to them to levy fees on pilgrims, fairs and festivals in Bombay, Bihar and Madras; education tax in Assam; adoption tax in Bombay, marriage tax in Assam and Bombay and taxes on *Sarais* and *Dharamshalas* in Madhya Pradesh, Orissa, Hyderabad and Saurashtra.

With a view to enabling the *panchayats* to discharge some of their specific duties and functions efficiently, provisions for the levy of special fees and taxes have been included in several Acts. They are statutorily allowed to impose water rate in Assam, Bihar, Madhya Pradesh, Orissa and Saurashtra; lighting rate in Bihar, Madhya Pradesh and Orissa; sanitary tax in Saurashtra and latrine and drainage rates in Bihar, Madhya Pradesh, Orissa and Hyderabad. In Jammu and Kashmir also a sanitation tax may be levied by them on all revenue paying lands. A village improvement tax may be imposed in Mysore at the rate of Rs. 6 to Rs. 10 per family *per annum*. In Travancore-Cochin, the Act permits the levy of a *panchayat* rate.

Besides the various taxes enumerated above, it is generally provided that all fees, fines, etc., realised by the village judicial bodies shall be accredited to the *panchayat* funds. In Madras, 9/10th of gross income derived from fines imposed by the magistrates in cases pertaining to the village shall be handed over to the *panchayat* concerned.

Regarding loans, it is laid down that the *panchayats* may borrow from the State Governments in Orissa and U. P. from the State Government or District Local Board in Bombay and from the District Local Board and a Co-operative Society in Hyderabad. The Act in Mysore provides that the *panchayats* may borrow for purposes of permanent improvement.

Compulsory Labour for public purposes—Another noteworthy feature of the Acts is that they give powers to the *panchayats* to introduce compulsory manual labour for purposes of public utility and option to individuals to render physical labour *in lieu* of cash taxes. The Bihar Act lays down that a labour tax should be imposed by the *panchayats* on all able-bodied persons between the prescribed age limits, which shall not be less than 12 units of labour of a person during any one year. The Act, however, gives option to make cash payment *in lieu* of the manual labour at the prevailing rates of wages as determined by the *Mukhiya*. In Orissa for the purposes of enforcement of manual labour for any public purpose, the *panchayats* shall impose a labour tax on all able-bodied persons between the ages of 18 and 50 years, payable in cash at double the prevailing rates for manual labour as determined by *gram panchayat*. The tax shall not be payable by persons who render such labour either by themselves or by a proxy for a period not exceeding 4 days or 2 days at a stretch in a year. The *panchayats* in Assam, Madhya Pradesh and Jammu and Kashmir may also call upon the residents to perform manual labour. Under the Assam Act, Labour Tax applies only to able-bodied male persons between the age of 18 and 40 years and further no person can be made to

render manual labour for more than 36 days in a year or more than 3 days at a stretch. The exemption may be had by making cash payment "equal to the wages of double the units of wages at the prescribed rates" in Assam, "an amount equal to double the wages" in Jammu and Kashmir and at such rates as may be determined by the *gram panchayat* in Madhya Pradesh. In the last mentioned States, a person is also given the option to have his portion of manual labour performed by another person on his behalf. The tax payers under the Bombay, Hyderabad and Saurashtra Acts have option to render equivalent labour to *panchayats in lieu* of cash payment. Commutation of taxes into labour is allowed in Hyderabad only up to a maximum of 18 days in a year.

EXTERNAL CONTROL

A certain amount of internal control over the activities of the *panchayats* is no doubt inherent in their democratic set-up. Nevertheless, it has been considered desirable to include provisions for some measure of external guidance and control in order to ensure a healthy development. The general powers for the purpose have been usually vested in the State Governments, who may delegate them to the prescribed authorities. Some of the Acts also specify these authorities. In Orissa, for instance supervision and control are to be exercised by the District Magistrates, in Bombay by the Collectors and District Local Boards, in Punjab by the Commissioners, in Madhya Pradesh by the District Councils (functioning in the circles), in Hyderabad by Collectors and Deputy Collectors, the latter in their capacity as Divisional *Panchayat* Officers. Provision has also been made for the appointment of Inspectors, Development Officers or *Panchayat* Officers to guide the *panchayats* in some of the Acts. The Assam Act provides for the appointment of Development Officers, the Bihar and Orissa Acts for *Gram Sewak*, the Madhya Pradesh and Madras Acts for Inspector and Regional Inspectors and Madras, Punjab, Hyderabad and Jammu and Kashmir Acts for *Panchayat* Officers and Deputy *Panchayat* Officers.

The controlling agencies have generally been given powers to inspect the *panchayats* and to call from them regular or *ad hoc* returns and reports in regard to their working. Besides, in some States like Assam, Madhya Pradesh and Madras, these agencies have been vested with powers to cancel, reverse or vary any resolutions passed by these village bodies, while in Bombay, Punjab and Hyderabad they can even suspend the execution of works and orders sanctioned by *panchayats*. Legislation in Saurashtra and some of the other aforesaid States, *viz.*, Assam, Bombay, Madhya Pradesh and Hyderabad goes still further. In these States, provisions have been made for the dissolution of *panchayats* by the prescribed authorities after the explanations for the defaults have been examined. In the event of dissolution of a *panchayat*, the prescribed authorities are required to take up and arrange for the execution of its works and other duties, which were being performed by it.

Advisory Bodies—In addition to control of the type referred to above, some of the Acts, also provide for the establishment or use of non-official or official agencies for guiding the affairs of the *panchayats*. The Assam Act is the most comprehensive in this respect, providing, as it does, for the establishment of the District Co-ordination Boards and the Sub-Divisional Co-ordination Boards with Deputy Commissioners and Sub-Divisional Officers as their *ex officio* Presidents respectively. In Orissa and Hyderabad, all the State M. L. A. 's and Chairmen and Vice-Chairmen of the District Boards would be *ex officio* visitors to the *panchayats* while the officers of the various departments may be directed to attend their meetings, etc., for rendering suitable advice to them. Under the Hyderabad Act also, the State M. L. A.'s and other prescribed non-officials may act as visitors to the *panchayats*. In Bihar, the *Gram Sewaks* to be appointed by the Government would, besides performing other duties, also give advice to the *panchayats* in their day-to-day affairs.

III. CONCLUSION.

One fact noticeable from the foregoing is that the State Governments are showing considerable interest in the development of *panchayats*. This is natural in view of the constitutional mandate on the subject as well as extension of State activities in the developmental sphere. In most of the States, legislation for setting up village *panchayats* already exists. Generally, the legislation on the subject is comprehensive and covers most of the civic and economic activities of village life. In many cases, the functions actually discharged by the *panchayats* are limited. It is necessary, however, to assign to the *panchayats* an important role in the development activities of the village in order to enlist the active support and co-operation of the people in the tasks of rural reconstruction. Besides, this will enhance the prestige and power of *panchayats* and may create conditions conducive to the efficient discharge of their other functions. In the words of the Planning Commission "Unless a village agency can assume responsibility and initiative for developing the resources of village it will be difficult to make a marked impression on rural life, for, only a village organization representing the community as a whole can provide the necessary leadership". The new responsibilities of *panchayats* envisaged by the Planning Commission include framing of programmes of production for the village, framing budgets of requirements for supplies and finance, securing minimum standards of cultivation, bringing waste lands under cultivation, acting as the channel through which governmental assistance (other than assistance given through co-operatives) reaches cultivators etc.

The important role assigned to village *panchayats* in the developmental sphere under the Five Year Plan places a two-fold responsibility on the State Governments. They have, in the first place, to examine whether the existing legislation is comprehensive enough to permit the *panchayats* to discharge the functions expected of them. And if the existing legal frame-work needs amendments, these have to be given effect to quickly. In the second place, administrative action is necessary to ensure that the development of village *panchayats* proceeds at a satisfactory pace and on sound lines. In some States vigorous administrative action has already been taken to push forward development of village *panchayats*. Other States have to follow suit.

ACTS IN PART 'A' STATES

THE ASSAM RURAL PANCHAYAT ACT, 1948

Assam Act XXVII of 1948

An Act to establish and develop Local Self Government in the rural areas of the Province of Assam

WHEREAS it is expedient to establish and develop Local Self Government in the rural areas of the Province of Assam and to make better provision for rural administration, reconstruction and development as self-sufficient autonomous units.

It is hereby enacted as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Assam Rural Panchayat Act, 1948.

Short title,
extent and
commence-
ment.

Assam Act I
of 1923.
Act II of
1924.

Regulation
I of 1886.

(2) Subject to the provisions of sub-section (3), it shall extend to the whole of the ¹[State] of Assam except any area which has been or hereafter may be constituted a Municipality under the provisions of the Assam Municipal Act, 1923 or any other Municipal Act or, any Cantonment area under the provisions of the Cantonment Act, 1924 or any other Act, or any area which has been or may hereafter be declared as, or included in a Municipality, or as a town area, provided that this Act shall not be deemed to extend to any area in the possession of an individual or firm engaged in any industrial enterprise or in special cultivation as covered by Section II of Chapter I of the Settlement Rules framed under the Assam Land and Revenue Regulation, 1886, when such enterprise or special cultivation is governed by factory, labour or similar legislation.

(3) It shall come into force in such area or areas and on such date or dates as the ¹[State] Government may by notification in the *Official Gazette* direct.

(4) The ¹[State] Government may, by notification, in the *Official Gazette* withdraw the whole or part of this Act from any area or areas to which it may have been extended and may make any alternative arrangements deemed necessary.

2. In this Act, unless there is anything repugnant in the subject or context:—

(a) "Adult" means a person male or female who has completed his or her twenty-first year;

¹ Sub. by the Adaptation of Laws Order, 1950.

(b) "building" includes a hut, shed, house, shop, ware-house, workshop or mill house;

(c) "case" means a criminal proceeding in respect of an offence triable by a Panchayati Adalat;

(d) "cattle" includes all quadrupeds;

(e) the expressions "complaint" and "offence" shall have the same meaning as in section 4 of the Code of Criminal Procedure, 1898; Act V of 1898.

(f) the expressions "decree", "decree-holder", "judgment-debtor", "Legal representative" and "movable property" shall have the same meaning as in section 2 of the Code of Civil Procedure, 1908; Act V of 1908.

(g) "joint electorate system" means a system under which the electors belonging to all communities vote jointly as prescribed and not as electors of separate communities ;

(h) "one unit of labour" means a period of manual labour normally done in one day as prescribed by rules made under this Act;

(i) "Official year" means the year beginning on the 1st of *Baisakh* and ending in the *Chaitra sankranti*;

(j) "Panchayat" means a Rural Panchayat established under section 3;

(k) "Primary Panchayat" means a Primary Panchayat established under section 4;

(l) "Panchayati Adalat" means a Panchayati Adalat established under section 74;

(m) "public servant" means a public servant as defined in section 21 of the Indian Penal Code, 1860 and does not include a retired servant of Government in receipt of a pension; Act XLV of 1860.

(n) "proceedings" means any proceedings specified under this Act other than a "case" or a "suit";

(o) "prescribed" means prescribed by rules made under this Act;

(p) "suit" means a civil proceeding in respect of matters triable by a Panchayati Adalat;

(q) "sub-division" means a sub-division created or maintained under the Code of Criminal Procedure, 1898; Act V of 1898.

(r) "village" means the area defined, surveyed and recorded as a village in the revenue records of the district in which it is situated and appropriated to human habitation, wholly or partly or recognised as such in the Thana list not included within a cantonment, municipality or town area;

(s) "water-course" includes any river, stream, channel, tank and well.

CHAPTER II

ESTABLISHMENT AND CONSTITUTION OF RURAL PANCHAYATS

3. (1) The ¹[State] Government may, by notification in the *Official Gazette*, declare any area to be a Rural Panchayat Area for the purpose of this Act.

Notification declaring any area to be a Rural Panchayat.

(2) The ¹[State] Government shall declare the name and the territorial jurisdiction of each Panchayat under sub-section (1) and may at any time, by notification in the *Official Gazette*, include any area in, or exclude any area from, the territorial jurisdiction of a Panchayat.

(3) Where any area is included in a Panchayat under sub-section (2) such area shall become subject to all the rules, regulations, bye-laws and orders made under this or any other enactment in force in the area within the jurisdiction of the aforesaid Panchayat.

4. (1) In each area declared a Rural Panchayat under section 3 there may be as many Primary Panchayats as may be deemed necessary by the Deputy Commissioner or the Sub-Divisional Officer, as the case may be.

Primary Panchayats.

(2) The Deputy Commissioner or the Sub-Divisional Officer, as the case may be, shall publish the name and territorial jurisdiction of such Primary Panchayats in the *Official Gazette*.

5. A Primary Panchayat shall be composed of all adults having a permanent residence within its area and shall form the electorate for the Rural Panchayat. But no person shall be a member of the Primary Panchayat and a voter for the Rural Panchayat if he—

Membership of a Primary Panchayat.

(a) ¹[is not a citizen of India; or]

(b) is of unsound mind declared by a competent Court, a deaf-mute or a leper.

6. A member of a Primary Panchayat shall continue to be a member till his death, provided he does not incur any of the disqualifications under section 5 or until he abandons his permanent residence in the area.

Period of Membership of a Primary Panchayat.

7. (1) Every Primary Panchayat shall elect in the prescribed manner from among its members an executive committee called the Primary Panchayat Executive Committee and a President and a Vice-President.

Primary Panchayat Executive Committee.

(2) The number of members of the Executive Committee of the Primary Panchayat shall not, including the President and the Vice-President, exceed 15 or be less than 9.

(3) The term of office of the President, the Vice-President and members of the Primary Panchayat Executive Committee shall be three years.

¹ Sub. by the Adaptation of Laws Order, 1950.

Office of the Primary Panchayat. 8. A Primary Panchayat shall maintain an office in the manner prescribed and the President shall be responsible to the Rural Panchayat for the due maintenance of the office.

Register of Members of Primary Panchayat. 9. (1) Each Primary Panchayat shall maintain a register of members in the prescribed form and shall revise and scrutinize it annually.

(2) A copy of such register shall be kept by the Panchayat in such manner as may be prescribed.

(3) Such register shall be opened to inspection by the public. Objections to and refusals of registration shall be opened to appeal to the Deputy Commissioner or the Sub-Divisional Officer, as the case may be, in the manner prescribed.

Dispute as to age or residence. 10. Every dispute as to the age or residence of a person for the purpose of section 5 shall be decided by the Panchayat Secretary as prescribed subject to the provisions of section 9(3).

11. The President of a Primary Panchayat shall discharge the responsibilities of the Primary Panchayat in consultation with the Primary Panchayat Executive Committee.

Functions of Primary Panchayat. 12. (1) A Primary Panchayat may act as the agent of the Rural Panchayat and shall follow the directions given by the Rural Panchayat from time to time.

Secretary of Primary Panchayat. (2) A Panchayat in consultation with the President of the Primary Panchayat shall appoint a Secretary for the Primary Panchayat who shall be responsible, in addition to his duties, for carrying out economic surveys as prescribed and be paid from the Panchayat Fund.

Meeting of Primary Panchayat. 13. (1) Meetings of a Primary Panchayat may be called by the President at any time and be held at such time and at such place within its jurisdiction as he may notify. At least 48 hours' notice of the meeting and its agenda shall be given to the members by word of mouth after a warning beat of drums. Similarly, the President shall call a meeting if twenty or more members of the Primary Panchayat so request.

(2) The President shall call a meeting on the request of the President of the Panchayat to which his Primary Panchayat is attached. If he fails to do so, the President of the Panchayat may request the Secretary of the Primary Panchayat to call and preside over the meeting.

(3) The business of meetings shall be transacted in the vernacular and minutes of the proceedings shall be drawn up and entered in a book kept for the purpose and shall be signed at the meeting by the President.

(4) Any member of a Primary Panchayat may at any meeting in the prescribed manner move resolutions or put questions on matters connected with the administration of the Primary or Rural Panchayat. If such a resolution moved and passed is one of no confidence in

any member of the Executive Committee of the Primary Panchayat, he shall be deemed to have vacated his office forthwith.

14. (1) In a meeting of the Primary Panchayat a vote of no confidence on any or all of the members of the Panchayat elected from such Primary Panchayat and a demand for their recall as representatives of such panchayat may be passed in the manner prescribed.

Vote of no confidence and recall of members.

(2) If a resolution is passed under sub-section (1) by a three-fifths majority vote at the meeting, the member or members, as the case may be, shall cease forthwith to be members of the Panchayat. A copy of such resolution shall be sent immediately to the President of the Panchayat and to the members concerned.

15. (1) The Primary Panchayat shall elect in the prescribed manner a new member to the Panchayat forthwith whenever a vacancy occurs by death, resignation or recall. A recalled member may seek re-election.

Filling up of casual vacancies of Primary Panchayat.

(2) If a President, Vice-President or a member of the Primary Panchayat Executive Committee dies, resigns or otherwise a vacancy is created, the Primary Panchayat shall in the meeting fill up such vacancy through election as prescribed.

16. (1) Each Primary Panchayat shall elect one representative for every two hundred of its members or a fraction thereof to the Rural Panchayat. These representatives shall constitute the Rural Panchayat under section 3, but no person shall be elected to, or remain a member of, the Rural Panchayat if he—

Rural Panchayat.

Act V of 1893.

(a) has been convicted of an offence involving moral turpitude or ordered to give security for good behaviour under section 110 of the Code of Criminal Procedure, 1898; or

(b) has been dismissed from Government service; or

(c) applies to be adjudicated, or is an undischarged insolvent; or

(d) has been proclaimed a tout under the Legal Practitioners Act; or

(e) holds any Government service or any service of profit under the Government whether by salary, fee or commission; or

(f) holds any remunerated office under the Rural Panchayat.

(2) The ¹[State] Government may appoint any officers as *ex officio* members, who shall have the right to attend all meetings of the Panchayat and give expert opinion or advice but shall have no right to vote.

17. The term of office of a member of a Panchayat shall be three years ²[but] one-third of the members ³[except the President and Vice-President] shall retire annually by the drawing of lots as prescribed:

Period of a membership of a Panchayat.

¹ Sub. by the Adaptation of Laws Order, 1950.

² Sub. by s. 2 of Act XXXIII of 1950.

³ Ins. by s. 2 of *ibid*.

Provided that the term of office of a member elected to fill a casual vacancy shall be the remainder of the term of the member whom he replaces. Such election shall be conducted by the Panchayat under the direction of the Deputy Commissioner or the Sub-Divisional Officer, as the case may be.

Election of
office bear-
ers.

18. When the constitution of the Panchayat under sections 15 and 16 is complete the Deputy Commissioner or the Sub-Divisional Officer, as the case may be, shall fix a date for election of office bearers of the Panchayat. The Panchayat shall then elect from among its members a President and a Vice-President who shall ordinarily hold office for a period of three years.

Panchayat
Cabinet.

19. (1) A President of a Panchayat, after he has been elected as such, shall select not less than five and not more than nine other members. These members who should as far as practicable be representatives of the different interests in the Rural Panchayat, will form a Panchayat Cabinet of Ministers (*Mantri Sabha*).

(2) The President may assign to each cabinet member such duties and functions as he may deem fit.

(3) The cabinet shall advise the President in all matters relating to the provisions of this Act.

(4) The Panchayat Ministers shall be responsible to the President and shall hold office at his pleasure.

Panchayat
Office.

20. A Panchayat shall have an office and the President shall be responsible for its due maintenance.

Resignation
of a Presi-
dent, Vice-
President
or a mem-
ber of a
Panchayat.

21. (1) A President of a Panchayat may resign during the term of his office by notifying in writing his intention to do so to the Deputy Commissioner or a Sub-Divisional Officer, as the case may be, through the Secretary, and on such resignation being accepted by him, shall be deemed to have vacated his office.

(2) A Vice-President, a Cabinet member or a member of a Panchayat may resign during his term of office by notifying in writing his intention to do so to the President, and on such resignation being accepted by him, shall be deemed to have vacated his office.

Removal of
President,
Vice-Presi-
dent and
member of
a Pancha-
yat.

22. (1) (a) A President of a Panchayat or of a Primary Panchayat Executive Committee shall be disqualified from holding office—

(i) if he is convicted of any non-bailable offence, or declared a tout, or convicted under the provisions of Chapter IXA of the Indian Penal Code, 1860; or

(ii) if he is declared insolvent; or recalled under sub-section (1) of section 14; or

(iii) if by a three-fifths majority of votes want of confidence is passed by the members at a meeting held in the prescribed manner; or

(iv) if he ceases to be a member of the Panchayat.

Act XLV of
1860.

(b) A President or Vice-President of a Panchayat or of a Primary Panchayat Executive Committee may be disqualified from holding office by the ¹[State] Government—

(i) if he refuses to act; or becomes incapable of acting or

(ii) if he is guilty of misconduct or wilful neglect in the discharge of his duties as President; or

(iii) if his continuance in office is dangerous to the public peace or order or likely to bring the administration of the Panchayat or the Primary Panchayat into contempt.

(2) With the approval of the Cabinet or Executive Committee, as the case may be, the President shall remove a Vice-President of a Panchayat or Primary Panchayat, as the case may be, from his office on the grounds mentioned in sub-section (1) (a) if any of them are applicable to him.

(3) The President of a Panchayat or Primary Panchayat, as the case may be, shall remove a member of the Panchayat or member of a Primary Panchayat Executive Committee, as the case may be, from his office with the approval of his Cabinet or Executive Committee, as the case may be, on any of the grounds mentioned in sub-section (1) (a) and on any of the grounds that—

(i) without any reasonable cause he absents himself from three consecutive meetings of the Panchayat or Primary Panchayat Executive Committee, as the case may be;

(ii) his removal is recommended in a meeting of the Panchayat or Primary Panchayat, as the case may be, by a three-fifths majority of members.

(4) No person who has been removed from office under the provisions of this section shall be eligible for re-election to the vacancy so created.

23. (1) If a vacancy in the office of a President arises by reason of his death, recall, removal or resignation, a Panchayat shall at a meeting within a month elect from among its members a new President. Filling up of casual vacancy of a Panchayat.

(2) The Panchayat in a meeting shall elect a new Vice-President forthwith when such a vacancy occurs by death, resignation or removal or when he ceases to be a member of the Panchayat.

24. (1) The meeting of a Panchayat shall be called by the President and shall be held in the Panchayat office or in such place in the area as he may notify. Conduct of business.

(2) An ordinary meeting of the Panchayat shall be held once in every month.

(3) The President may, at any time, or shall upon a requisition in writing of not less than one-third of the members or a Panchayat Secretary or Deputy Commissioner or Sub-Divisional Officer, call a special meeting.

¹ Sub. by the Adaptation of Laws Order, 1950.

(4) Every meeting shall be presided over by the President and in his absence by the Vice-President and in the absence of both, a Panchayat shall choose one of their members to preside.

(5) (i) For any meeting of a Panchayat one-third of the total number of members shall form the quorum and the decision of the majority at a meeting shall be binding in all matters save as otherwise provided. The President shall not be entitled to vote at the first instance but when voting is equal he shall have a casting vote.

(ii) The voting shall be by show of hands.

(6) For want of a quorum a meeting may be adjourned to a future date appointed by the President and 48 hours' notice of such meeting shall be given :

Provided that no quorum shall be necessary for a meeting adjourned for want of a quorum.

(7) The Panchayat shall fix a day in every month on which an ordinary meeting shall be held. A notice shall be sent in the manner prescribed to the members at least 7 days before the date fixed for a special meeting in which the nature of the business to be transacted shall be clearly described:

Provided that non-receipt of a notice by a member shall not vitiate the proceedings of a meeting.

(8) The business of a meeting of a Panchayat shall be transacted in the vernacular.

(9) Minutes of the proceedings of every meeting shall be recorded at the time of the meeting in a book kept for the purpose and shall be signed by the President of the meeting before the meeting disperses.

(10) The Panchayat Secretary shall send copies of the proceedings of all meetings of a Panchayat to the Deputy Commissioner or the Sub-Divisional Officer, as the case may be.

Executive
power of
the Pan-
chayat.

25. Resolutions of the Panchayat will be carried out by the President in whom the entire executive power of the Panchayat shall be vested and he shall be directly responsible for the due performance of the duties imposed upon the Panchayat under this Act.

Irregularities
not to
vitate any
act.

26. No act of a Panchayat shall be deemed invalid by reason only that the number of members at the time of the performance of such act was less than the sanctioned number or by reason of any irregularity in the election of any member or the President of such Panchayat.

Employment
of Pancha-
yat staff.

27. A Panchayat may, with the previous sanction of the Deputy Commissioner or the Sub-Divisional Officer, employ such staff as may be necessary for carrying out the duties imposed upon it under this Act and pay the salaries of such staff out of the Panchayat Fund and exercise the power of punishment, disciplinary action or promotion of such staff.

28. For the proper organisation, inspection and supervision of the working of Primary and Rural Panchayats the Deputy Commissioner or the Sub-Divisional Officer, as the case may be, may appoint a Rural Panchayat Secretary for each Panchayat area to be paid from the Sub-Divisional Development Fund.

29. The President of a Panchayat shall convene a general meeting of all members of Primary Panchayats under the jurisdiction of a Panchayat in each year and shall review the whole working of the Panchayat and Primary Panchayats during the preceding year, and in that meeting shall present the Panchayat's Working plan for the next year.

30. Every Panchayat shall, by the name notified in the *Official Gazette* under section 3, be a body corporate having perpetual succession and a common seal and shall subject to any restriction or condition proposed under this or any other enactment in force, have power to acquire by purchase, gift or otherwise, to hold, administer and transfer property, both movable and immovable, and to enter into any contract, and shall by the said name, sue or be sued, and do all other things necessary for the purposes of this Act.

CHAPTER III

ADMINISTRATIVE FUNCTIONS AND POWERS OF RURAL PANCHAYATS

31. Subject to such rules as may be prescribed in this behalf a Panchayat, within the limits of the Fund at its disposal, may provide for the requirements of the area under its jurisdiction in respect of the following matters :—

- (1) cleaning and lighting of streets;
- (2) sanitation and conservancy of the Panchayat area and the prevention of public nuisance therein;
- (3) construction, maintenance and improvement of public wells and tanks for the supply of water to the public for drinking, washing and bathing purposes;
- (4) the taking of curative and preventive measures in respect of an epidemic;
- (5) the opening and regulating of burial and cremation grounds for the dead bodies of human beings and regulating places for disposal of dead animals and of other offensive matter;
- (6) construction and maintenance of places for the storage of cowdung, oil cakes and other manure and regulating its collection, removal and disposal;
- (7) maintenance of records relating to population census, cattle census, spinning wheel and weaving machine census, census of un-employed persons and landless persons or persons having no economic holdings and other statistics as may be prescribed;

(8) the construction, maintenance and improvement of communications, drains and water-ways;

(9) the control of grazing grounds, village common and other communal property;

(10) the relief of the poor, of the sick or victims of famine, flood or other calamity;

(11) regulating the places of slaughter of animals and the curing, tanning and dyeing of skins of dead animals;

(12) controlling and maintaining buildings, institutions or property belonging to or vested in it or which may be transferred to it for management;

(13) regulating the construction of new buildings or houses or the extension or alteration of any such existing one;

(14) regulating the production and disposal of food-stuffs and other commodities in the manner prescribed;

(15) primary (basic and pre-basic) education;

(16) opening and regulating co-operative societies, model villages, sales and purchase depots, trading organizations;

(17) Hospitals and Dispensaries including 'Ayurvedic', 'Unani' and 'Homoeopathic' Hospitals for preserving public health and medical relief;

(18) anti-malarial and anti *kala-azar* measures and enforcement of vaccination;

(19) registration of births and deaths and maintenance of registers for the purpose;

(20) promotion and encouragement of cottage industries and improvement of agriculture and agricultural stock, and maintenance of model farms;

(21) prevention of cattle mortality and improvement of breeding;

(22) maintaining a village volunteer force for watch and ward, for assisting the Panchayat and Primary Panchayats and the *Panchayati Adalat* in the discharge of their functions and for the service of summons and notices issued by them;

(23) maternity and child welfare;

(24) supplying local information as required to the Government or any other authority;

(25) anything necessary for the preservation of public health and for improving the sanitation, conservancy, or drainage of the Panchayat area and any other measures of public utility calculated to promote the moral and material well-being of the area and bring about communal harmony therein;

(26) planting and maintaining trees at the sides of public places and public streets

(27) prohibiting and controlling fragmentation and sub-division of holdings;

(28) establishment of *Panchayati Adalat* for administration of civil and criminal justice;

(29) establishment of public radio sets for the benefit of the rural population;

(30) regulation of melas, hats, pounds, sarai houses;

(31) establishment and maintenance of a library, reading room, club or other places of recreation and games;

(32) the popularization of village sports, organisation and celebration of national and public festivals;

(33) legal and persuasive measures for restraint of child marriage;

(34) destruction of stray dogs;

(35) disposal of unclaimed cattle;

(36) measures against burglary and dacoity;

(37) the removal of encroachments on public streets, public places and property vested in the Panchayat;

(38) any other functions as may be deemed necessary to carry out the purposes of this Act.

32. (1) If it appears necessary to improve the sanitary condition or amenities of a Panchayat area or a part thereof:—

Improve-
ment of sa-
nitiation.

(a) the Panchayat may —

(i) cause huts or privies to be wholly or partly removed;

(ii) cause private drains to be constructed, altered or removed;

(iii) cause public drains to be constructed, altered or removed and cause any water-course, well, pool, ditch, tank, pond or any place containing or used for the collection of any drainage, filth or stagnant water which appears to be injurious to health or offensive to the neighbourhood, to be filled up, cleansed or deepened or the water to be drained off or such action to be taken therewith as may be deemed necessary;

(iv) cause any land, which by reason of thick vegetation, under-growth or jungle appears to be dangerous, obnoxious to health or offensive to the neighbourhood or to form an impediment to efficient ventilation, to be cleared of such vegetation, under-growth or jungle; .

(v) cause to be removed any dirt, dung, night soil or any offensive matter, and such other improvements as are necessary to improve the sanitary condition of such Panchayat area or part thereof, and

(b) a Panchayat may, by written notice, require within a reasonable period to be specified therein and taking into consideration his financial position—

(i) an owner or occupier of any hut or the owner of any privy to remove such hut or privy either wholly or in part; or

(ii) an owner or occupier of any building to construct private drains thereof or to alter or remove private drains thereof; or

(iii) an owner or occupier of any land or building to which any such well, pool, ditch, tank, pond or place as is referred to in clause (a) (iii) pertains to or of any such land as is referred to in clause (a) (iv) to do anything which the Panchayat is itself empowered to do under either of those clauses.

(2) Any person who wilfully disobeys any direction issued under clause (b) of sub-section (1) shall be liable to a fine which may extend to ten rupees.

(3) If any work required to be done under this section is not executed within the period specified in the notice, the Panchayat may itself cause such work to be executed or done and the cost incurred may be recovered from the owner or occupier as an arrear of Panchayat assessment.

(4) If the Panchayat considers that any person affected by action under sub-section (1) has suffered a loss through no fault of his own, it may award fitting compensation from the Panchayat fund.

Joint Com-
mittees.

33. (1) Two or more Panchayats, or Panchayats and Local Authorities may join—

(a) in appointing, out of their respective bodies, a joint committee for any purpose in which they are jointly interested;

(b) in delegating to such committee power to frame terms binding on each such authority for the carrying out of such purpose; and

(c) in framing and modifying rules, fixing the constitution of such committee and the term of office of its members and regulating the proceedings of such committee relating to the purpose for which the committee is appointed.

(2) If any difference of opinion arises between Panchayat and Panchayat or between Panchayats and Local Authorities acting under this section, it shall be referred to the ¹[State] Government whose decision thereon shall be final.

Transfer of
certain du-
ties from
the Local
Authority
or private
persons to the
panchayat.

34. Subject to such rules as may be prescribed and to such conditions as may be agreed upon, any person or Local Authority may, with the consent of the Panchayat make over to it management of any institution or the execution or maintenance of any work or the performance of any duty within its jurisdiction.

¹ Sub. by the Adaptation of Laws Order, 1950.

35. (1) A Panchayat may, in accordance with a scheme formulated and published and providing compensation, where necessary, for the whole or a part of the Panchayat area with the previous approval of the ¹[State] Government, direct—

Power of Panchayat to reconstruct or remodel villages.

(a) that any existing village or villages be reconstructed or remodelled;

(b) that new villages under such scheme be established with landless persons or persons having no economic holding by taking control of Government land with the approval of the Government;

(c) that in accordance with such scheme no house, buildings, wall, wall-fencing or platform shall be erected re-erected or added to in advance of an alignment to be prescribed by the Panchayat and demarcated on the ground;

(d) in accordance with the said scheme the fixing of the space which shall intervene between any new or enlarged house or building and the house or building next adjacent and between any new or enlarged house or building and any road or path in the area.

(2) If any person contravenes any direction made under sub-section (1) the Panchayat may make an order—

(i) directing any construction or so much of such construction done in contravention of the order to be demolished by the owner or that it will be altered by him to the satisfaction of the Panchayat within such time as may be fixed; or

(ii) directing that the work done or so much of such construction done in contravention of the order be demolished or altered by the Panchayat at the cost of the owner within a fixed time.

(3) If any person to whom a direction under sub-section (2) to demolish or alter the construction is given, fails to obey the same, he shall be liable to a fine which may extend to Rs. 5 for each day during which he fails to obey the direction.

36. (1) Notwithstanding anything contained in any existing law or custom, the Panchayat with a view to prevent fragmentation of agricultural holdings and to consolidate the same for the purpose of the better cultivation thereof, may, after calling a meeting of the people affected and after reaching a decision by a two-thirds majority vote in the manner prescribed, direct that—

Power of Panchayat to prevent fragmentation of agricultural holdings.

(i) no land within its jurisdiction may be transferred by anyone so as to create a fragment of less than 12 bighas;

Explanation—Sale to the owner of a contiguous piece of land shall not be deemed to create a fragment;

(ii) no single block of land within its jurisdiction may be allowed to be partitioned amongst the sharers if such partition results in a share-holder having a holding of less than 12 standard bighas in that particular block of land.

¹ Sub. by the Adaptation of Laws Order, 1950.

(2) If there are two or more sharers and there is no adequate land for all of them, the Panchayat, in the absence of any agreement among them either to keep the property in common or to take money value from some one, may provide as many sharers as possible and realise compensation on behalf of the rest from the sharers settled with the land and when realised, pay the amount to the person entitled. The other sharers not settled with land shall be entitled to a share of the produce, as determined by the Panchayat, until they are paid the compensation for the land as fixed by the Panchayat. The Panchayat shall take into consideration the financial position of the sharer with whom the land is settled in awarding him time to pay the compensation money.

No appeal shall lie against any order under this section.

(3) No land shall be transferred to any person not residing within a Panchayat area without the sanction of the Panchayat.

Maintenance
of Trading
Organiza-
tions.

37. A Panchayat may, subject to such rules as may be prescribed, maintain in co-ordination with the Government departments one or more trading organisations for the promotion of cottage industries, sale of raw materials and marketing of the finished products, and sponsor rural co-operative organisations for the provision of credit, savings and banking and may require the residents of the Panchayat area to make use of such organisations.

Unions of
Craftsmen.

38. A Panchayat may require professional or casual weavers, spinners and other craftsmen to form into unions and may have control over them, by making rules and regulations of such unions. It may also help these unions by granting subsidies and offering markets for the finished goods.

Holding of
Exhibition.

39. A Panchayat may hold exhibitions of local products, home industries, handicrafts and such other things and may co-operate with other local authorities to hold such exhibitions anywhere in the district.

Power of
Panchayat
as to roads,
water-ways,
bridges and
culverts.

40. A Panchayat shall have control of all roads, water-ways, bridges and culverts, not being private property and not being under the control of the ¹[State] ²[or Central] Government or any Local Authority and may do all things necessary for the maintenance and repair thereof and may—

- (i) lay out and make new roads;
- (ii) construct new bridges and culvert, and
- (iii) divert, discontinue or close any road, bridge or culvert under its control;
- (iv) widen, open, enlarge or otherwise improve any such road, bridge or culvert;

¹ Sub. by the Adaptation of Laws Order, 1950.

² Ins by s. 2 of Act VII of 1949.

(v) construct, deepen or otherwise improve water-ways under its control;

(vi) cut any hedge or branch of any tree projecting on to a public road;

(vii) notify the setting apart of any public water-course for drinking purposes, and prohibit bathing, washing of clothes and animals of doing of other acts likely to pollute the course so set apart;

(viii) provide for the lighting of any road or public place within the Panchayat.

41. A Panchayat may maintain within its jurisdiction stud livestock for the purpose of improved breeding of livestock and may require the residents of the Panchayat area to castrate their livestock and also inoculate them when epidemics break out.

42. The Panchayat shall be deemed to be a Local Power of a Panchayat to prevent spread of water-hyacinth.

Assam Act III of 1926.

43. In an emergency a Panchayat shall exercise such powers for controlling and preventing an outbreak of any epidemic or infectious disease within the limits of a Panchayat area, which may be necessary for stopping the movement of infected persons or goods in and out of a Panchayat area; for inoculation, for seizure of polluted foodstuffs notwithstanding the provisions of the Assam Pure Food Act, 1947; for disinfecting wells, tanks, or other sources of water and controlling the removal of water and doing such other acts as may be necessary under the circumstances. A Panchayat shall immediately inform the Government authorities concerned and also neighbouring Panchayats so that unified action may be taken.

Assam Act XXII of 1947.

44. (1) A Panchayat shall by itself or co-jointly with neighbouring Panchayats take steps to scare away monkeys, squirrels, elephants, birds, locusts and other pests in order to save crops from being damaged.

(2) A Panchayat shall have power of controlling the tethering and grazing of cattle in the Panchayat area.

45. (1) Notwithstanding anything contained in the Preventive measures against celebration of marriage between couple under legal age.

Act XIX of 1929.

(2) If a party fails to comply with the notice under sub-section (1) he shall be liable on conviction, to a fine not exceeding two hundred rupees.

Power to enter into contract for collection of tax or revenue. **46.** A Panchayat may, in accordance with rules made in this behalf, enter into a contract in respect of its area with the Government to collect all or any class of tax or revenue or fee or dues payable to the Government on being allowed a prescribed percentage of collection charges.

Execution of project costing more than one thousand rupees. **47.** When any project is framed by a Panchayat the cost of which is likely to exceed one thousand rupees, the work shall not be commenced until the project has been sanctioned by the Deputy Commissioner or the Sub-Divisional Officer, as the case may be.

Establishment of primary school and hospitals. **48.** A Panchayat—
(1) shall, subject to such rules as may be prescribed regarding the curriculum, employment, and qualification of teachers, supervision of schools and other matters, assume charge of and maintain and manage any existing primary school and may establish and maintain such school within its jurisdiction;

(2) shall, subject to such rules as may be prescribed regarding the establishment, maintenance, supervision and other matters maintain any existing hospital including veterinary hospitals and may establish and maintain new hospitals or dispensaries including Ayurvedic, Homoeopathic, Unani or veterinary hospitals or dispensaries.

Explanation—Primary school shall include Middle Vernacular School and also the educational institutions working on the Basic system.

Introduction of co-operative farming. **49.** (1) By previous agreement among the persons of the whole or a compact part of its area, a Panchayat may introduce farming on a co-operative basis and make rules and regulations guiding such farms:

Provided that a Panchayat may also introduce such farming if two-thirds of the population of such area agree to such farming.

(2) When such co-operative farming is introduced under the proviso to sub-section (1), the Panchayat may take possession of such area and the owner of the land, not agreeing to enter into such co-operative farming shall be entitled only to a reasonable rent to be determined by the Panchayat with the approval of the Deputy Commissioner or the Sub-Divisional Officer, as the case may be.

Power of entry of Panchayat Officers into premises. **50.** Any member, officer or employee of a Panchayat may enter into or upon any house, building or land, with or without assistants or workmen, in order to make any inspection or execute any work under any provision of this Act:

Provided that—

(a) no such entry shall be made between sunset and sunrise;

(b) no entry to a dwelling house may be made, unless with the consent of the occupier thereof, without giving the said occupier at least 24 hours' previous notice signed by the President or the Vice-President of the intention to make such entry; and

(c) due regard shall always be had to the social and religious usages of the occupants of the premises entered.

51. (1) A Panchayat may make to the proper authority any representation concerning the welfare of the persons residing within its area. Representation and recommendation by the Panchayat.

(2) A Panchayat may forward to the proper authority any complaint by any person residing within its jurisdiction against any Government official if it considers that there is *prima facie* evidence for such complaint and with its own remarks on it. by the Panchayat.

52. A member of a Panchayat, President of a Primary Panchayat, member of any committee or joint committee constituted under this Act, shall be liable for such loss, waste or misappropriation of money or property belonging to the Panchayat which may be occasioned as a result of his personal and wilful negligence or misconduct. Liability for causing loss, waste or misappropriation of money or property of the Panchayat.

53. Every member or employee of a Panchayat or Panchayati Adalat, every member of the executive committee of the Primary Panchayat, a Joint Committee and the Village Volunteer Force constituted under this Act, shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code, 1860. Public servant.

Act XLV of 1960.

54. Subject to the prescribed conditions, a Panchayat may appoint committees to assist it in the discharge of any specified duty or class of duties and may delegate to such committees any of its powers as may be deemed necessary. Appointment of committees.

55. A Panchayat shall maintain a Village Volunteer Force to assist in the furtherance of the objects of this Act as prescribed. Village Volunteer Force.

56. (1) A Panchayat may frame bye-laws from time to time consistent with this Act and rules framed thereunder for carrying out the purposes of this Act. Power to frame bye-laws.

(2) Such bye-laws may also provide a penalty for every breach thereof.

(3) Such bye-laws shall take effect only after they have been approved by the ¹[State] Government.

CHAPTER IV

FINANCE AND PROPERTY OF THE RURAL PANCHAYAT

57. The ¹[State] Government shall establish and maintain a fund to be called the Assam Rural Development Fund and there shall be placed to the credit thereof— Assam Rural Development Fund.

(i) such contributions from the ¹[State] Exchequer as may be made to this Fund :

¹ Sub. by the Adaptation of Laws Order, 1950.

(ii) Contributions from other sources.

Application of the Assam Rural Development Fund. **58.** The Assam Rural Development Fund shall be applied to the furtherance of the purposes of this Act and be distributed in the prescribed manner.

Sub-Divisional Rural Development Fund. **59.** (1) In every sub-division there shall be a Fund to be called the Sub-Divisional Rural Development Fund the accounts of which shall be kept in accordance with the rules and in the prescribed manner.

(2) The following shall be credited to the Fund:—

(i) all sums collected under sub-section (1) of section 133 with respect to such receipts from public ferries, schools, hospitals, hats, bazars, pounds, tolls of bridges and sums directed under section 31 of the Cattle Trespass Act, 1871 placed at present under the control and administration of the Local Boards under Chapter VI of the Assam Local Self-Government Act, 1915 and sums collected under the Bengal Village Chaukidari Act, 1870 ;

Act I of 1871.
Assam Act I of 1915.
Bengal Act VI of 1870.

(ii) contributions from the Assam Rural Development Fund;

(iii) contributions from any Local Authority or Private individual;

(iv) Local rates; and

(v) all other sums which may be assigned to it.

Distribution of the Sub-Divisional Rural Development Fund. **60.** (1) In consultation with the District or Sub-Divisional Co-ordination Board and with the annual conference of Presidents and Secretaries of Panchayats, the Deputy Commissioner or the Sub-Divisional Officer, as the case may be shall distribute each year the Sub-Divisional Rural Development Fund in the following manner:—

(i) ten per cent. of the total fund shall be kept apart as a reserve against unforeseen contingencies;

(ii) necessary expenditure for the equipment, establishment and salaries of the Sub-Divisional Rural Development establishment;

(iii) an equitable allotment of sums to each Panchayat for the purposes of carrying out the provisions of this Act.

(2) The Deputy Commissioner or the Sub-Divisional Officer shall not delegate his powers under this section to any other officer.

(3) (i) The Deputy Commissioner or the Sub-Divisional Officer, as the case may be, shall inform every Panchayat of the sum allotted to such Panchayat one month previous to the time fixed under the rules for the preparation and submission of the budget by such Panchayat, and

(ii) the Panchayat shall add the money so allotted to its opening balance and then prepare the budget for the year under section 63

61. In every Panchayat there shall be a fund vested in the Panchayat, which shall be called the Panchayat Fund and shall be utilised by the Panchayat to meet charges in connection with its duties under this Act. The accounts of the Panchayat Fund shall be kept in the prescribed manner.

62. The following shall be credited to the Panchayat Fund:—

(i) proceeds of any tax, cess or any assessment, or fines imposed under this Act or under rules or bye-laws framed under this Act by the Panchayat;

(ii) fees levied for the institution of civil suits and criminal cases before the Panchayati Adalat under section 64;

(iii) fees for the issue of permits that the Panchayat may impose under this Act or under rules or bye-laws framed under this Act;

(iv) fines levied by the Panchayati Adalat in criminal cases so far as such fines are not ordered to be paid to the complainant;

(v) cost of execution of works recovered under subsection (3) of section 32;

(vi) all other sums ordered by any authority or any court to be placed to the credit of the Panchayat Fund;

(vii) contributions from the Government, private individuals or Local Authorities, if any;

(viii) all other sums which may be assigned to the Panchayat;

(ix) such allotment as the Deputy Commissioner or the Sub-Divisional Officer may make out of the Sub-Divisional Rural Development Fund;

(x) the sale proceeds of all dust, dirt, dung or refuse collected by its employees; and

(xi) sums received by way of loan or gift.

63. (1) A Panchayat shall, at such time or times and in such form as prescribed prepare and submit a budget showing the probable estimate of receipts and expenditure it proposes to incur and may from time to time furnish a supplementary estimate providing for any modification which it may deem advisable to make in the distribution of the amount to be raised and expended in each year commencing from the 1st *Baisak* and ending in *Chaita sankranti* for the purposes of this Act and it shall be submitted to the Deputy Commissioner or the Sub-Divisional Officer for scrutiny and approval.

(2) The Deputy Commissioner or the Sub-Divisional Officer shall, after such revision as may be deemed fit, pass the budget for each year and the Panchayat shall abide by the budget so passed.

64. (1) A Panchayati Adalat shall levy fees for the civil suits at such rate as may be prescribed.

Fees levied by the Panchayati Adalat.

(2) A Panchayati Adalat may levy fees for the institution of criminal cases except those under section 379 of the Act XLV of Indian Penal Code, 1860, at such rate as may be prescribed.

Provided that the fees and rates so levied under sub-sections (1) and (2) do not exceed the fees prescribed in the Act VII of Court Fees Act, 1870 for the time being in force in the ¹[State].

Power of
Taxation.

65. Subject to the prescribed rules and bye-laws framed by a Panchayat and any orders made by the ¹[State] Government in this behalf, a Panchayat may impose the following taxes in addition to the existing local rates:—

(1) a tax on—

(a) the land Revenue payable to the ¹[State] Government at a rate not exceeding one anna per rupee of such revenue, the tax aforesaid being payable jointly or severally by the recorded *pattadars* who are in possession of such land as cultivators;

(b) in permanently settled areas at a rate not exceeding one anna per standard bigha payable jointly or severally by the occupiers of the land;

(c) uncultivated cultivable land;

(d) buildings at such rate as may be prescribed;

(e) marriage, health, water, firewood, education, cattle, boats, cycles and carts at such rate as may be prescribed.

(2) Any other rate, tax, cess, or any license or other fees that may be levied from time to time with the previous approval of the ¹[State] Government.

(3) The taxes shall be imposed, assessed and realised at such time and in such manner as may be prescribed.

Audit of
Accounts.

66. The accounts of the Panchayat shall be audited once a year as may be prescribed,

Assessment
not to be
questioned.

67. No objection shall be taken to any assessment nor shall the liability of any person so assessed be questioned otherwise than in accordance with the provisions of this Act or the rules made thereunder.

Expenses of
the Pancha-
yati Adalat.

68. The expenses of the Panchayati Adalat shall be charged to the Panchayat Fund.

Acquisition
of land.

69. When a Panchayat requires any land for the purposes of this Act other than those enumerated in section 49, it shall obtain the land by private negotiation and when such negotiation fails, the Panchayat may make an application to the Deputy Commissioner to acquire the land and the Deputy Commissioner may acquire such land for the Panchayat according to law.

Explanation—Land includes benefits which arise out of land and things attached to the earth or permanently fastened to anything attached to the earth.

¹ Sub. by the Adaptation of Laws Order, 1950.

70. (1) The ¹[State] Government may allocate to Control of the Panchayat any public property situated within the public jurisdiction of that Panchayat, whereupon such property shall vest in and belong to, and come under the control of that Panchayat.

(2) Every road, building, well, canal or other work constructed by a Panchayat from the Panchayat Fund shall vest in the Panchayat.

71. A Panchayat may impose a labour tax involving the rendering of manual labour to it by able-bodied male persons between the ages of eighteen years and forty years for a prescribed number of units of labour, provided that no person shall be made to render manual labour for more than 36 days in a year or more than three days at a stretch; provided also that a person assessed to labour tax may, instead of rendering manual labour, pay to the Panchayat Fund an amount equal to the wages of double the units of labour at the rate prescribed when he is asked to do the manual labour. Imposition of labour tax.

72. The Deputy Commissioner or the Sub-Divisional Officer may at any time call for the papers of any Panchayat containing assessment or rate imposed in a Panchayat area and may make inspection thereof and may approve or make suggestions for alteration, addition or modification of the assessment or rate imposed. When such papers containing the assessment or rate imposed are returned with any suggestion, the Panchayat in a meeting shall reconsider the matter and adopt a resolution on the point and send a copy of the resolution to the Deputy Commissioner or the Sub-Divisional Officer. Power of Deputy Commissioner or the Sub-Divisional Officer to call for and inspect records containing assessment or rate.

73. A Panchayat may control all lands kept waste within its jurisdiction and may utilise them in any manner it deems necessary, if the owner does not utilise them himself within a specified period. The owner of the land shall be entitled only to Government revenue and to the return of the land on terms as prescribed. Control of waste land.

CHAPTER V

PANCHAYATI ADALAT

74. The ¹[State] Government may, by notification in the *Official Gazette*, establish a Panchayati Adalat for each Panchayat established under section 3 and invest it with, or withdraw from it, from time to time any or all of the judicial powers under this Chapter, as may be deemed necessary. Establishment of Panchayati Adalat.

75. (1) When a Panchayati Adalat is established under section 74, the members of a Panchayat shall elect in a meeting as prescribed five persons to act as members of the Adalat. Such members may or may not be the members of the Panchayat, but shall not be members of the Panchayat Cabinet. Election of members to the Panchayati Adalat.

¹ Sub. by the Adaptation of Laws Order, 1950.

(2) No person shall be elected as a member of the Panchayati Adalat if he—

- (i) is not above 35 years of age;
- (ii) is not a permanent resident in the Panchayat area;
- (iii) is a legal practitioner or a pleader's clerk;
- (iv) incurs any or all of the disqualifications stated in sections 5 and 16 (1).

(3) The term of Office of a member of a Panchayati Adalat shall be ordinarily for three years from the date of his election.

Election of the Chairman of the Adalat.

76. (1) The members of a Panchayati Adalat elected under section 75 shall elect from among themselves a person who is able to record proceedings as Chairman of the Adalat.

(2) Every member of an Adalat shall take an oath of office in the prescribed manner.

Resignation of the Chairman or member of the Adalat.

77. (1) A member of a Panchayati Adalat may resign by submitting his resignation in writing to the Chairman who may accept the resignation. The Chairman may resign by submitting his resignation to the District or the Sub-Divisional Magistrate who may accept such resignation.

(2) (i) A member of a Panchayati Adalat may be removed from his office by the District or the Sub-Divisional Magistrate for the reasons prescribed.

(ii) Such member shall not be entitled to re-election for a period of at least three years.

Filling up of casual vacancy of the Adalat.

78. If any member of a Panchayati Adalat fails to complete his term of office either by death, removal or resignation, the vacancy shall be filled up by electing another person in the manner prescribed and thereupon the member so elected shall fill such vacancy for the term for which such member would otherwise have continued in office.

Members of the Panchayati Adalat not to take part in certain proceedings.

79. No member or Chairman shall take part in any case, suit or proceeding to which he or his near relation, dependent, employer, employee, or partner in business, is a party or in which any of them may be personally interested.

Criminal jurisdiction and subject to the provisions of this Act.

80. (1) Subject to the provisions of section 74 and notwithstanding anything contained in the Code of Criminal Procedure, 1898, a Panchayati Adalat shall have jurisdiction similar to that of a Criminal Court within the local limits of whose jurisdiction it situates for the trial of all offences aetnments of and attempts to commit such offences, specified in section 83 and may try any such offence if the case is transferred to it by a District Magistrate, Sub-Divisional Magistrate or any other Magistrate empowered to receive petitions under section 190 of the Code of Criminal Procedure, 1898. Act V of 1898.

Act V of 1898. (2) A Panchayati Adalat may be conferred with all or any of the powers specified in Parts I and II of Schedule III of the Code of Criminal Procedure, 1898.

81. A District Magistrate or Sub-Divisional Magistrate may transfer any case from one Panchayati Adalat to another or to any other competent court subordinate to him. Transfer of cases.

82. Any Magistrate before whom a charge-sheet is submitted or a complaint made relating to any offence cognizable by a Panchayati Adalat shall transfer the case or the complaint petition to the Panchayati adalat in whose jurisdiction the offence is alleged to have been committed. Criminal court is not to take cognizance of offences cognizable by the Adalat.

83. Offences under the following enactments and sections if committed within the jurisdiction of a Panchayati Adalat as well as abetments of and attempts to commit such offences, shall be cognizable by such a Panchayati Adalat:— Offences triable by an Adalat.

(a) Sections 109, 110, 111, 113, 114, 140, 143, 144, 145, 147, 149, 150, 151, 153, 154, 155, 157, 158, 160, 170, 171, 172, 173, 174, 175, 176, 177, 179, 180, 182, 183, 184, 185, 186, 187, 188, 202, 228, 264, 265, 267, 269, 271, 272, 273, 277, 278, 279, 282, 283, 285, 286, 288, 289, 290, 291, 292, 293, 294, 294(A), 295, 296, 297, 298, 309, 323, 324, 334, 336, 341, 342, 343, 352, 354, 355, 356, 357, 358, 374, 379, 380, 403, 411, (where the value of the stolen or misappropriated property as far as sections 379, 380, 403 and 411 are concerned, does not exceed fifty rupees) 426, 427, 428, 430, 431, 432, 447, 448, 451, 504, 506, 508, 509, 510, of the Indian Penal Code, 1860 ;

Act XLV of 1860. (b) Sections 20, 21, 22, 23 and 24 of the Cattle Trespass Act, 1871;

(c) An offence under this Act or any rule made thereunder;

Act XIII of 1861. (d) Offences under section 34 of the Police Act, 1861 ;

Act III of 1867. (e) Sections 3, 4 and 7 of the Public Gambling Act, 1867;

Act XVII of 1878. (f) Offences under the Northern India Ferries Act, 1878, except those under sections 26 and 28;

(g) Any other offence under any other enactment, declared by the ¹[State] Government to be cognizable by such Adalat.

84. A case before a Panchayati Adalat may be instituted by complaint made orally or in writing to any member of a Panchayati Adalat on payment of a prescribed fee. If the complaint is made orally the member shall record the substance of the allegation, the name and address of the complainant and of the accused person or persons and shall direct the complainant to appear before it on a day fixed. Lodging of complaints.

¹ Sub. by the Adaptation of Laws Order, 1950.

Dismissal of frivolous, vexatious or false cases. **85.** If on consideration of the complaint, or on examination of the complaint, a Panchayati Adalat is of opinion that the allegation is frivolous or vexatious or false, it shall dismiss the case by order in writing.

The Adalat is to direct certain cases to the proper court. **86.** If it appears to a Panchayati Adalat that—
 (i) it has no jurisdiction to try the case; or
 (ii) the offence is one for which it cannot award adequate punishment; or
 (iii) the case is of such a nature or complexity that it should be tried by a Magistrate's court; it shall direct the complainant to the proper court.

Dismissal of a case for default. **87.** If a complainant fails to appear before a Panchayati Adalat on the day fixed or if in its opinion he shows negligence in prosecution of his case, it may dismiss the case for default and discharge the accused persons by order in writing.

Appearance of accused. **88.** (1) If the complaint be not dismissed, a Panchayati Adalat shall by summoning or otherwise, require an accused to appear and answer the petition.

(2) If an accused fails to appear or cannot be found, a Panchayati Adalat shall request the nearest Magistrate who may issue a warrant for the arrest of the accused and when arrested may forward him for trial to it or release him on bail to appear before it.

(3) A Panchayati Adalat shall release an accused brought before it under sub-section (2) on his executing a bond for a sum not exceeding one hundred rupees to appear before it whenever called for the pending case.

(4) A Panchayati Adalat may not compel a woman to appear in person against her will as a witness, but she may be examined on commission in the manner prescribed.

Exclusion of the Adalat's jurisdiction in certain cases. **89.** No Panchayati Adalat shall take cognizance of any offence in which the accused—

(a) has been previously convicted of an offence with imprisonment, simple or rigorous, or fined under Chapter XVII of the Indian Penal Code, 1860 ; Act XLV of 1860.

(b) has been bound over to be of good behaviour under section 109 or 110 of the Code of the Criminal Procedure, 1898; Act V of 1898.

(c) has been previously convicted of gambling.

Findings of the Adalat. **90.** (1) The Adalat after hearing both parties and their witnesses, if any, shall give its finding in writing.

(2) The Adalat is not required to follow the provisions of the Criminal Procedure Code, or the Indian Evidence Act but the substance of the deposition of the parties or of their witnesses, if any, shall be recorded and kept as prescribed.

(3) If the Chairman of the Adalat is not sitting, the presiding member shall be chosen by lot.

(4) No decision in any case shall be arrived at by an Adalat if at least 3 of its members are not present at all sittings.

(5) If the members of an Adalat are not unanimous, the majority decision shall stand. In the event of equal voting the presiding member shall have an extra vote.

91. (1) No sentence of imprisonment, simple or rigorous whether substantive or in default of payment of fine shall be inflicted by any Panchayati Adalat: Sentence inflicted by an Adalat.

Provided that when the Adalat considers that any sentence short of imprisonment will not meet the justice of the case, it may forward the case to the District or Sub-Divisional Magistrate, as the case may be, for disposal according to law.

(2) A conviction by an Adalat under this Act shall not be deemed to be a previous conviction for the purpose of the provisions of the Code of Criminal Procedure.

92. (1) In no case shall a Panchayati Adalat inflict a sentence of fine exceeding 250 rupees. Limit of fine.

(2) A Panchayati Adalat instead of sentencing to fine may discharge after due admonition a youthful offender who, in the opinion of the Adalat was on the date of the commission of the offence not over twelve years of age. Admonition to youthful offender.

93. The Panchayati Adalat may award any compensation to the complainant out of the fine imposed on the accused. Compensation to the complainant.

94. If any Panchayati Adalat, after enquiry, is satisfied that a criminal case brought before it is false, or frivolous or vexatious, such Adalat may order the complainant to pay to the accused such compensation not exceeding rupees twenty-five as it deems fit. Compensation to the accused.

95. (1) The amount of any fine imposed or compensation awarded by a Panchayati Adalat under this Act shall be paid to the Adalat within fifteen days of the order imposing or awarding it. Recovery of fine imposed or compensation awarded.

Act V of 1898. (2) If after the expiry of the said fifteen days the amount remains unpaid, the Adalat shall proceed to recover it under the provisions of section 386 of the Code of Criminal Procedure and may, if it finds any difficulty in its recovery, certify the fact to the District Magistrate or the Sub-Divisional Magistrate within whose jurisdiction the Adalat lies, and such Magistrate shall recover it as if the sentence of fine or the award of compensation had been passed by him, and remit the amount to the Adalat.

96. (1) No Panchayati Adalat shall have any power to revise any sentence or order passed by itself nor shall such order or sentence be subject to appeal or revision by No appeal lies.

any court except that the Sessions Judge having jurisdiction over the area concerned may set aside or modify any conviction, order, or sentence on the ground of want of jurisdiction, corruption, partiality or misconduct on the part of the Adalat or any member thereof or on the ground that there has been a miscarriage of justice.

(2) The Sessions Judge may, with the approval of the ¹[State] Government, confer on any Additional Sessions Judge or, where there is no Additional Sessions Judge, on the Assistant Sessions Judge having jurisdiction in the District the powers exercisable by him under subsection (1).

Bond for keeping the peace.

97. (1) When the Adalat has any reason to apprehend that there is likelihood of breach of peace in any locality within its jurisdiction, it may call upon such person as it deems fit to execute a bond for keeping the peace.

(2) If any person violates the order or fails to execute the bond, he may, on conviction, be sentenced to a fine not exceeding rupees one hundred in addition to any punishment that may have been inflicted for any substantive offence committed.

Civil jurisdiction.

98. Notwithstanding anything contained in the Act XII of Bengal, Agra and Assam Civil Courts Act, 1887, the Provincial Small Cause Courts Act, 1887, and the Code of Civil Procedure, 1908 and subject to the provisions of this Act, ^{1887. Act IX of 1887. Act V of 1908.} every suit instituted under this Act shall be instituted before the Adalat.

Extent of civil jurisdiction.

99. The Panchayati Adalat shall have jurisdiction to try any suit of the following description if its value does not exceed two hundred and fifty rupees:—

(1) (a) a suit for money due on a contract, other than a contract in respect of immovable property;

(b) a suit for recovery of movable property or for the value thereof;

(c) a suit for compensation for wrongfully taking or injuring a movable property;

(d) a suit for damages caused by cattle trespass;

(e) a suit for damages for malicious prosecution in the Adalat;

(f) a suit for recovery of rent in cash or kind; and

(2) any class of suits of such value not exceeding two hundred and fifty rupees which the ¹[State] Government may, by notification in the *Official Gazette*, direct.

Exclusion of civil jurisdiction in certain classes of suits.

100. No suit shall lie in any Panchayati Adalat—

(1) on a balance of any partnership account, unless the balance has been struck by the parties or their agents;

(2) for a share or part of a share under an intestacy or for a legacy or part of a legacy under a will;

¹ Sub. by the Adaptation of Laws Order, 1950.

(3) by or against the Government (Central or ¹[State]), or a public servant for acts done in his official capacity;

(4) by or against minors or persons of unsound mind;

(5) by a mortgagee of immovable property for the enforcement of the mortgage by foreclosure or sale of the property or otherwise, or by a mortgagor of immovable property for the redemption of the mortgage.

101. No suit shall lie to an Adalat unless at least one Territorial of the defendants resides within the limits of its juris- Jurisdiction. diction at the time of the institution of the suit and the cause of action has arisen wholly or in part within its limits.

Explanation—Any person who has a place of residence within the jurisdiction of an Adalat in which he usually lives or which he visits at frequent intervals shall be deemed to be residing within its jurisdiction.

102. (1) A suit or a proceeding before an Adalat Filing of suits. may be instituted by petition in writing and the value of the claim shall be stated in the petition and at the same time the prescribed fee shall be paid.

Act VII of 1870. (2) The Court Fees Act, 1870, shall not apply to an Adalat except as may be prescribed.

(3) Every suit instituted before a Panchayati Adalat shall include the whole of the claim which the plaintiff is entitled to make in respect of the matter in dispute, but he may relinquish any portion of his claim in order to bring the suit within the jurisdiction of the Panchayati Adalat.

(4) If a plaintiff omits to sue in respect of or relinquishes any portion of it, he shall not afterwards sue in respect of the portions so omitted or relinquished.

103. (1) If at any time, the Adalat is of opinion that Dismissal of the suit is barred by limitation as laid down in Schedule suits. A to this Act, the Adalat shall dismiss the suit or proceeding by an order in writing.

(2) If at any time, it appears to the Adalat that it has no jurisdiction to entertain the suit or the proceeding, it shall direct the petitioner to the proper court.

(3) If the suit or the proceeding is entertained, the Court shall fix a date and shall by summons or otherwise require the defendant to appear on that date to answer the suit or proceeding in writing.

(4) The Adalat shall then proceed with the suit or proceeding and give hearing as prescribed.

104. The Adalat may dismiss any suit or proceeding Dismissal of for default,— suits for default.

(1) if on the date fixed the plaintiff fails to appear or takes no steps, or

(2) if any steps taken appear to be not sufficient or in the opinion of the Adalat the plaintiff shows negligence in prosecuting his suit or proceeding :

Provided that the Adalat may restore such suit or proceeding dismissed for default, if within fifteen days from the date of such dismissal the plaintiff satisfies the Adalat that he was prevented by sufficient cause from appearing, on payment of reasonable costs to the opposite party if he has appeared on that date.

Res judicata.

105. (1) No Adalat shall try any suit or proceeding in respect of which any matter is pending for decision in, or has been decided by, a competent court in a former suit for the same cause of action and for similar issues and between the same parties or parties under whom they or any of them claim.

(2) The decision of a Panchayati Adalat on the question of title, legal character, contract or obligation shall not bind the parties except in respect of the suit in which such matter is decided.

Ex parte hearings.

106. If the defendant fails to appear and the Adalat is satisfied that he received notice of the date fixed for hearing, the Adalat may decide the suit *ex parte*.

Revival of suits.

107. If the defendant against whom a case has been decided *ex parte* applies to the Adalat within fifteen days of such decision or from the date of his knowledge of such decision and if the Adalat is satisfied that the defendant did not get due notice of the date of hearing or was prevented from appearing by any sufficient cause, the Adalat may revise the suit or proceeding and fix a date for hearing of the suit on payment of reasonable costs to the opposite party.

Explanation.—Sufficient cause is a matter of fact and varies with the circumstances of each case.

Notice to opposite party on revival of suits.

108. No decision or order of an Adalat shall be modified or set aside under section 104 or 107 without serving a notice to the opposite party.

Exercise of jurisdiction in suits on the motion of both the parties.

109. Notwithstanding anything contained in this Act or in any other enactment for the time being in force it shall be lawful for an Adalat to decide any civil dispute arising within its local area and not pending in any other court if the parties by a joint petition pray for trial of any such suit or proceeding.

Revenue proceedings.

110. Notwithstanding anything contained in the Assam Regulation Land and Revenue Regulation, 1886, any proceeding regarding Mutation before a Revenue Court may be sent to the Panchayati Adalat within the local limits of which the land concerned is situated for the Adalat to decide the question of possession. The finding of the Adalat shall be accepted by the Revenue Court: I of 1886.

Provided that where the land included in the local area of more than one Adalat is concerned, the Revenue Court may send it to any of the Adalats concerned.

111. (1) Panchayati Adalat shall receive such evidence as the parties or their lawful agents may produce and may call for such evidence in the interests of justice, equity and good conscience which the Adalat deems necessary. Hearing of suits.

(2) The Adalat may make an investigation at the place to which the dispute relates.

(3) The Adalat may add as parties to a suit or proceeding any persons residing within the limits of its jurisdiction and whose presence as parties it considers necessary for a proper decision thereof and shall enter the names of such persons as parties in the register of suits and the suit shall be tried as between the parties whose names are entered in the said register.

(4) When any party is added under sub-section (3) notice shall be given to him and the parties to the suit and he shall be given an opportunity of appearing and contesting the suit or the proceeding.

(5) If the new party appears under sub-section (4) and prays for a *de novo* trial the Adalat may allow such prayer.

(6) The Adalat shall ascertain the merits of every suit or proceeding by every lawful means in its power and thereafter shall, by written order, pass such decree as it may deem just, equitable and according to good conscience stating in the decree the amount payable as fees and costs, and the person by whom such amounts are payable.

(7) The Adalat may direct in writing in the decree that payment of a sum of money or the delivery of any movable property may be made by instalments.

112. (1) The decision of an Adalat in every suit or proceeding shall be final as between the parties to the suit, and shall not be open to appeal or revision in any court: Appeal or revision does not lie.

Provided that if there has been miscarriage of justice, want of jurisdiction or apprehension of miscarriage of justice, the District Judge having jurisdiction over the area concerned may, on application of any party at any time in a pending suit or proceeding and within thirty days from the date of decree or order, or on his own motion call for the records of the suit or proceeding from the Adalat for reasons to be recorded and—

(i) cancel the jurisdiction of the Panchayati Adalat with respect to such suit or proceeding, or

(ii) cancel or quash the decree or the order passed in such suit or proceeding by the Adalat,

(iii) modify the decree or the order or direct a re-trial by the same or any other Panchayati Adalat or by any court subordinate to him.

(2) The District Judge may, with the approval of the [State] Government confer on any Additional District Judge, Subordinate Judge and Additional Subordinate Judge having jurisdiction in the District the powers exercisable by him under sub-section (1).

(3) Notwithstanding anything contained in the Indian Limitation Act, when the District Judge passes any order under sub-section (1) (i) the plaintiff may institute a suit on the same cause of action and for the same relief in the court of the Munsiff and the period from the date of institution of the suit before the Panchayati Adalat to the date of such order shall be excluded in computing the period of limitation for the fresh suit. Act IX of 1908.

Agents may appear. **113.** Any party to a suit or proceeding may appear before a Panchayati Adalat either in person or by such partner or relation authorised by him in writing as the Adalat may admit as a fit person to represent him but no legal practitioner or a pleader's clerk shall appear, plead or act on behalf of any party in any suit or proceeding before the Panchayati Adalat.

Legal Representatives. **114.** If the plaintiff or defendant in any suit or proceeding dies before the suit or proceeding has been decided, the suit or proceeding may be proceeded with at the instance of or against the legal representatives of the deceased plaintiff or the defendant, as the case may be.

President of the Primary Panchayat is to assist the Adalat. **115.** The Adalat may ask the President of the Primary Panchayat to be present and assist the Adalat when any case, suit or proceeding by or against any person residing in such Primary Panchayat is called upon for hearing.

Execution of decrees. **116.** (1) A decree or the order passed by an Adalat shall be executed in such manner as may be prescribed.

(2) (i) If the property of a defendant situates outside the jurisdiction of the Adalat passing the order or decree and the Adalat is unable to effect satisfaction thereof, it may transfer the decree or order for execution in the prescribed manner to the Adalat within whose jurisdiction the property situates ; or

(ii) If there be no such Panchayati Adalat or if the Panchayati Adalat passing the decree or the order finds difficulty in executing the same, it shall certify the decree or the order and forward the same to such Civil Court as would have had jurisdiction if this Act had not been passed and the court then shall execute the decree as if it were passed by it.

Satisfaction of decrees. **117.** If on the application of the decree holder or the judgment debtor the Adalat which passed the decree or the order finds after enquiry that the decree has been satisfied wholly or partly, the Adalat shall enter the fact in the prescribed register.

¹ Sub. by the Adaptation of Laws Order, 1950.

118. (1) The Panchayati Adalat may by summons or otherwise send for any person living within the Panchayat Area to appear and give evidence or to produce or cause the production of any document: Summoning witnesses.

Act V of 1908. Provided that no person who is exempt from personal appearance in court under section 133 (1) of the Code of Civil Procedure shall be required to appear in person before an Adalat.

(2) The Adalat may refuse to summon a witness where, in the opinion of the Adalat, the attendance of the witness, cannot be procured without an amount of delay, expense or inconvenience which under the circumstances of the case, would be unreasonable.

(3) If any person wilfully and without sufficient cause disobeys any summons, notice or order to appear or give evidence or to produce any document before it, the Adalat may take cognizance of such offence and may sentence any person convicted thereof to a fine not exceeding twenty rupees.

(4) A Panchayati Adalat shall maintain such registers, registers, and records, supply copies of records and submit such records and copies and returns as may be prescribed. Returns of an Adalat.

119. No suit, case or proceeding shall lie in a Panchayati Adalat against any Panchayat, its members or employees for acts done or purporting to be done in discharge of their duties. The Adalat is not to try certain case, suit or proceeding.

CHAPTER VI

CONTROL.

120. (1) The ¹[State] Government and all officers empowered by the Government in this behalf shall have general power of inspection, supervision, and control over the performance of the administrative duties of a Panchayat, and, without prejudice to the generality of the foregoing powers, may Inspection, supervision, advice, etc.

- (a) enter on and inspect any immovable property in the occupation or control, or any work in progress under the direction of a Panchayat, Primary Panchayat, Joint Committee, or Union of Panchayats;
- (b) call for and inspect any document which may, for the purpose of this Act, be in the possession or control of a Panchayat, Primary Panchayat, Joint Committee, or Union of Panchayats;
- (c) require by an order in writing a Panchayat, Primary Panchayat, Joint Committee or Union of Panchayats to furnish such statements, accounts, reports, proceedings as they think fit;

¹ Sub. by the Adaptation of Laws Order, 1950.

- (d) give such advice in writing in respect of the administrative work, duties and proceedings as they think fit;
- (e) institute any enquiry in respect of any matter relating to a Panchayat, Primary Panchayat or Joint Committee and rectify any act or omission.

(2) When any area comes under the operation of this Act, the ¹[State] Government shall appoint a Development Officer with such powers and functions as may be prescribed for the Sub-Division concerned.

121. The ¹[State] Government and all officers empowered by the Government in this behalf shall have general power of inspection, supervision, advice and guidance over a Panchayati Adalat.

District and
Sub-
Divisional
Board.

122. (1) (i) In order to achieve better co-ordination between the different departments of Government, the ¹[State] Government may cause to be formed for each District a District Co-ordination Board and for each Sub-Division, excluding the Sadar Sub-Division, a Sub-Divisional Co-ordination Board for the purpose of this Act.

(ii) The Deputy Commissioner shall be *ex officio* President of the District Co-ordination Board and the Sub-Divisional Officer of the Sub-Divisional Co-ordination Board.

(iii) The Development Officer shall be *ex officio* Secretary of the District or Sub-Divisional Co-ordination Board as the case may be.

(iv) Membership of the District and Sub-Divisional Co-ordination Boards shall be confined to the officers of Government Departments as prescribed, save that the Chairmen of the Local and Municipal Boards shall be *ex officio* members.

(v) Meetings of the District and Sub-Divisional Co-ordination Boards shall be held at least once in three months.

(vi) Government Departments shall carry out the directions of the Co-ordination Boards unless the ¹[State] Government directs otherwise in any particular instance.

(vii) The ¹[State] Government may frame rules for the conduct of the business of the Co-ordination Boards.

Board of Ad-
visers.

(2) The ¹[State] Government may also appoint an Adviser or Board of Advisers for the purpose of this Act as may be deemed necessary.

Control of
any default
or abuse of
power by a
Panchayat.

123. (1) If at any time it appears to the officer empowered in this behalf that a Panchayat or any officer or employee or member thereof has made default on the performance of any duty imposed upon it by or under this Act and that such default is likely to cause obstruction, annoyance and injury to any member of the public or to any class of persons

¹ Sub. by the Adaptation of Laws Order, 1950.

or body of persons lawfully employed, or cause danger to human life, health or safety, or riot or affray, such officer may order the duty to be performed within a reasonable period specified and if the duty is not performed accordingly, such officer may appoint some person to perform it and direct that the expense arising from and incidental to its performance shall be paid by the defaulting Panchayat out of the Panchayat Fund within a fixed period of such further time as may be allowed by the Government on the application of the Panchayat.

(2) Any officer exercising the power under sub-section (1) shall call for the explanation of the Panchayat for any default stated in sub-section (1) and with any explanation, if submitted, shall forthwith report to the Government which may rescind, modify or confirm the order.

124. The Deputy Commissioner or the Sub-Divisional Officer, as the case may be, may, by order in writing, on information received or on his own initiative, suspend or prohibit the execution of any resolution of a Panchayat or of any order or notice issued by it or its President, or cancel such order, notice or resolution and may prohibit the doing of any act which is about to be done or is being done in pursuance, or under colour, of this Act if in the opinion of the said officer such act, order, notice or resolution is manifestly perverse or *ultra vires* of the Panchayat or the execution of such order, notice, act or resolution is likely to cause obstruction, injury or annoyance to the public or danger to human life, health or safety or is likely to lead to a riot or an affray or is otherwise against public interest. Prohibiting the execution of any Act by the Panchayat which is perverse or *ultra vires*.

125. (1) If the ¹[State] Government are of opinion that a Panchayat or a Panchayati Adalat persistently makes default in the performance of the duties imposed upon it by or under this Act or any other Act or abuses its power, they may after giving sufficient opportunity to show cause to the contrary, by an order in writing specifying the reason for so doing, dissolve such Panchayat or a Panchayati Adalat. Dissolution of a Panchayat by the Government.

(2) On the dissolution of a Panchayat or a Panchayati Adalat under sub-section (1)—

(i) the members of the Panchayat or Panchayati Adalat shall vacate their offices as such members as from the date of publication of such notice of dissolution;

(ii) all properties vested in the Panchayat or any balance of the Panchayat Fund shall be vested in, and its liabilities be transferred to, the Deputy Commissioner or the Sub-Divisional Officer, as the case may be, who shall make such arrangements deemed necessary until the next election;

(iii) all cases, proceedings and suits of the Panchayati Adalat shall be transferred to any other^{*} Adalat or to any court having jurisdiction.

¹ Sub. by the Adaptation of Laws Order, 1950.

Delegation of powers by the Deputy Commissioner or the Sub-Divisional Officer to the Development Officer. **126.** (1) The ¹[State] Government may delegate any of their powers under this Act or Rules framed under this Act, except where expressly provided to the contrary, to any Government servant.

(2) Except where expressly provided to the contrary, the ¹[State] Government may delegate all or any of the powers of the Deputy Commissioner or the Sub-Divisional Officer under this Act or Rules framed under this Act to the Development Officer.

(3) Except where expressly provided to the contrary, the Deputy Commissioner or the Sub-Divisional Officer, as the case may be, may delegate all or any of his powers under this Act or Rules framed under this Act to the Development Officer.

(4) The delegations of power under sub-sections (1), (2) and (3) shall be made by an order in writing and such order may be modified at any time.

Annual conference of Presidents and Secretaries of the Panchayat. **127.** The Deputy Commissioner or the Sub-Divisional Officer, as the case may be, shall preside over a conference of Presidents and Secretaries of the Rural Panchayats of the Sub-Division to be called once a year for the purpose of discussing the allocation of grants from the Sub-Divisional Development Fund for the ensuing year and for any other purpose concerning the working of this Act.

CHAPTER VII

PENALTY

Penalty for contravening any provisions of this Act or any rule or bye-law framed thereunder. **128.** Whoever contravenes any provision of this Act, or the rules or bye-laws framed under it, shall on conviction be liable unless otherwise prescribed, to a fine which may extend to Rupees twenty-five and in case of a continuing breach, with a further fine which may extend to Rupees two for every day during which the breach continues after conviction for the first breach,

Institution of suits, case or proceedings against member, agent or employee of a Panchayat. **129.** (1) No action, civil or criminal, shall lie against a member, agent or employee of a Panchayat, acting under its direction, in respect of anything done in good faith under this Act or any rule or bye-law made thereunder.

(2) No suit shall be brought against any Panchayat or any member, officer or employee thereof in respect of any act purporting to be done in its or his official capacity until the expiration of sixty days next after notice in writing has been served. The notice shall state the cause of action, the name and address of the plaintiff and the relief which he claims.

(3) No such action shall be entertained if instituted after six months of the accrual of the alleged cause of action.

¹ Sub. by the Adaptation of Laws Order, 1950.

130. (1) Whoever obstructs a Panchayat or any member, employee or agent thereof, or prevents or attempts to prevent any such person from doing anything which he is empowered or required to do under the provisions of this Act, bye-laws or rules made thereunder, or Penalty for obstructing a Panchayat and damaging property.

(2) whoever without lawful authority removes, or destroys, defaces or otherwise obliterates any notice, materials of public street or bridge, lamp post, direction post, stand post or other such property exhibited or erected by the Panchayat or under its authority,

shall be liable on conviction to a fine not exceeding fifty rupees.

131. (1) The Panchayat may either before or after institution of any case compound an offence against this Act or any rule or bye-law made thereunder on payment of such sum in cash to the Panchayat Fund as may be agreed upon. Power of Panchayat to compound cases.

(2) When an offence has been compounded the offender shall be discharged and no further proceedings shall be taken against him in respect of the offence so compounded.

Act XVIII of 1850.

132. The provisions of the Judicial Officers' Protection Act, 1850, shall apply to the members of the Panchayat Adalat. Judicial Officers' Protection Act.

CHAPTER VIII

MISCELLANEOUS

133. (1) When any local area is declared to be a Rural Panchayat Area under section 3, any assessment, rate or tax which is in force in such area under the provisions of the Assam Local Self-Government Act, 1915, or Bengal Village Chaudidari Act, 1870, shall continue to be in force until reassessed under this Act and all sums due on account of such rate or tax shall be collected by the Panchayat under the provisions of this Act and shall be credited to the Sub-Divisional Rural Development Fund. Amendment of certain enactments; saving of certain provisions.

Assam Act I of 1915.
Ben. Act VI of 1870.

(2) When the provisions of this Act are withdrawn from any Rural Panchayat Area, all the properties, funds and dues which are vested in such Panchayat, shall be vested in the Deputy Commissioner or the Sub-Divisional Officer, as the case may be, who shall make such allocation of such properties as he deems fit and his orders thereon shall be final.

134. (3) The Village Chaudidari Act, 1870, shall have no operation in the areas where Panchayats are established under this Act. Ben. Act VI of 1870.

(1) If, in giving effect to the provisions of this Act, any difficulty arises, the [State] Government may, as occasion may require, during a period of five years from the date on which this Act comes into force in any area Provision for avoidance of difficulties.

under sub-section (3) of section 1, do anything which appears to be necessary or amend any of the provisions of this Act for the purpose of removing the difficulty.

(2) Subject to the provisions of sub-section (3), any amendment made by an order published under sub-section (1) shall have effect as if enacted in this Act.

(3) Every order published under sub-section (1) shall be laid on the table of the Assam Legislative Assembly at the session of the said Assembly next following and shall be liable to be modified, varied or rescinded by a resolution of the said Assembly and such order shall, without prejudice to anything done or suffered thereunder, be deemed to be modified, varied or rescinded accordingly.

¹[State]
Government
is the final
authority.

135. If, in establishing a Primary Panchayat, a Panchayat or a Panchayati Adalat or Union Panchayat or in the working of such Primary Panchayat, Panchayat or Panchayati Adalat or Union Panchayat any dispute or difficulty arises regarding the interpretation of any provision of this Act or any rule or bye-law made thereunder or any matter arising out of or relating to such interpretation, or any matter not provided in this Act, the same shall be referred to the ¹[State] Government whose decision thereon shall be final.

Co-operation
with Govern-
ment Officers.

136. The Panchayat, so far as practicable, shall act in co-operation with and shall assist any Government Officer who works for the welfare of the rural population of the Panchayat area in performance of his duties within its area.

Police to
report com-
mission of
offences to
the Pan-
chayat.

137. Every Police Officer shall report the commission of any offence under this Act coming to his knowledge to the Panchayat and assist all members or employees of the Panchayat in the exercise of their lawful authority.

Formation
of Union
Panchayat.

138. After this Act has been made effective throughout the entire area of a District or Sub-Division, the ¹[State] Government may form Unions therein of Panchayats as deemed suitable and may appoint such officers as deemed necessary and may frame rules to guide these Unions and to assign functions and duties and also the relationship of the officers to the Unions.

Members of a
Panchayat or
a Panchayati
Adalat are
not to acquire
interest in
Panchayat
property or
contract
work.

139. No member of a Rural Panchayat or a Panchayati Adalat or other officers having any duty to perform in connection with any sale or contract work under this Act, shall directly or indirectly bid for, or acquire any interest in any property sold at such sale or accept the contract work.

Joint electo-
rate system.

140. All elections under this Act shall be held under the joint electorate system in accordance with the rules prescribed.

¹ Sub. by the Adaptation of Laws Order, 1950.

141. (1) The ¹[State] Government may after pre-^{Power of}vious publication make rules carrying out the purposes ¹[State] Government and objects of this Act and such rules may provide a penalty to ^{franc} not exceeding Rs. 50 (fifty rupees) for a breach thereof. ^{rules.}

(2) In particular, and without prejudice to the generality of the foregoing power, the ¹[State] Government may make rules—

(a) with reference to all matters expressly or by implication, required or allowed by this Act to be prescribed;

(b) prescribing how to decide disputes relating to elections under this Act and the procedure to be followed and powers to be exercised by such authorities in making enquiries into such disputes;

(c) regulating the establishment of Primary Panchayats, Rural Panchayats, and Unions of Panchayats;

(d) regulating the preparation of Electoral Rolls and the election of members of a Rural Panchayat, Primary Panchayat, Panchayati Adalat and Union Panchayat and also of the election of Presidents and Vice-Presidents and their powers;

(e) regulating the time and place of sitting, convening and conduct of Panchayats and the quorum required for such meetings;

(f) regulating establishment of joint committees and determination of all matters relating to the constitution and procedure of such committees under the Act and their duties, functions and powers and appointment of officers;

(g) prescribing returns to be submitted and copies to be supplied to the public of proceedings of Panchayats or Panchayati Adalats;

(h) regulating the exercise by the Panchayat of any of the powers under this Act and in particular its power to sue and to acquire, hold or transfer property and to enter into contract, and to regulate the trading centres and unions;

(i) regulating the procedure for filling up of vacancies in the Executive Committee, Joint Committee or other committee and the Panchayati Adalat and also prescribing the authority by which disputes in relation to the filling up of the above-mentioned vacancies are to be decided and the procedure to be followed therein;

(j) regulating the amount and nature of security to be furnished by employees or office bearers of Panchayats or Panchayati Adalats and their remuneration, pay, appointment, qualification, discharge, punishment, suspension or removal from office and their right of appeal;

(k) regulating the liability, assessment and collection of taxes, cesses, rates and fees, collection, custody and proper administration of the Panchayat Fund, and conditions subject to which sums due to Panchayat may be written off as irrecoverable, and conditions of refund of any tax, cess, fee and rates collected under this Act;

¹ Sub. by the Adaptation of Laws Order, 1950.

(l) regulating the custody and proper maintenance of registers and accounts and their audit and inspection;

(m) regulating the powers and duties of Panchayats in regard to sanitation, conservancy, drainage, buildings, roads, bridges, water supply, schools, dispensaries, general uplift of rural areas and the prohibition of public nuisance;

(n) framing budgets and earmarking funds for specific purposes;

(o) regulating the powers of auditors, inspecting or superintending authorities and all matters connected with audit, inspection, superintendence or control;

(p) regulating the procedure of the Panchayati Adalat in the exercise of its criminal or civil powers under this Act;

(q) regulating the issue, service or execution of summonses, notices or other processes of Panchayati Adalat and transfer of such summonses or processes to other Panchayati Adalat or any Court for service or execution and also issue and service of notices by the Panchayat;

(r) prescribing the fee to be levied by a Panchayati Adalat for institution of cases, suits or proceedings filing petitions for issue of processes and notices, for obtaining copies of orders and other documents and the procedure to be followed in these respects;

(s) regulating the mode of executing the sentences, decrees or orders of the Panchayati Adalat;

(t) regulating the procedure to be followed by an Adalat in the institution, trial and disposal of cases, suits or proceedings and prescribing the method of forming a quorum;

(u) providing the procedure to be observed in making of bye-laws by the Panchayat;

(v) for the printing of the prescribed forms and registers;

(w) for submission of annual reports and their review and plans, designs, specifications and estimates;

(x) prescribing the channel of correspondence between Panchayat and the Government or any other authority;

(y) prescribing the duties, powers and functions of the Village Volunteer Force;

(z) for the disposal of assets and liabilities of a Panchayat on its abolition.

CHAPTER IX

REPEAL

Repeal.

142. (1) The ¹[State] Government, by notification in the *Official Gazette*, may declare that, with effect from such date and to such area or areas as may be specified in the notification, the Assam Local Self-Government Act, 1915, shall cease to be in operation, and upon the issue of such notification the Assam Local Self-Government Act, 1915, shall be deemed to be repealed on the date so specified.

¹ Sub. by the Adaptation of Laws Order, 1950.

(2) Notwithstanding the repeal of the Assam Local Self-Government Act, 1915, any arrear of a tax, toll, fee or rate which was imposed thereunder or any sum of money on account of fine or otherwise which was due to a Local Board established thereunder may be recovered by the Deputy Commissioner or the Sub-Divisional Officer, as the case may be, and paid to the Sub-Divisional Rural Development Fund and its disposal shall be governed by section 143.

Assam Act I
1915.

143. From the date the Assam Local Self-Government Act, 1915, is repealed all the property including the Local Board Fund belonging to any Local Board established under the Act repealed, shall vest in the Deputy Commissioner or the Sub-Divisional Officer, as the case may be, and shall be held by it in trust, until it is made over in accordance with the order of the ¹[State] Government or such officer as the ¹[State] Government may appoint in this behalf to the Rural Panchayat established under this Act in the area over which the Local Board to whom the property belonged had jurisdiction.

Effect of
repeal.

SCHEDULE A

(See Section 103)

Period of limitation for certain suits

Serial No.	Description of suits	Period of limitation	Time from which period begins to run
1	For money due on a contract	3 years	When the money becomes due to the plaintiff.
2	For the recovery of movable property or for the value thereof.	1 year	When the plaintiff becomes entitled to the delivery of the movable property.
3	For compensation for wrongfully taking or injuring movable property.	1 year	When the movable property is wrongfully taken or when injury occurs.
4	For damages caused by cattle trespass.	1 year	The date of trespass.
5	For damages for a malicious prosecution in the Panchayati Adalat.	Six months	When the plaintiff is acquitted, or the prosecution is otherwise terminated.
6	For arrears of rent in cash or kind	1 year	When the arrears become due.

¹ Sub by the Adaptation of Laws Order, 1950.

THE BIHAR PANCHAYAT RAJ ACT, 1947

Bihar Act VII of 1948

An act to establish and develop local self-government in the village communities of the province of Bihar.

WHEREAS it is expedient to establish and develop local self-government in the village communities of the Province of Bihar and to organise and improve their social and economic life;

It is hereby enacted as follows:—

CHAPTER I

PRELIMINARY

Short title,
extent and
commence-
ment.

1. (1) This Act may be called the Bihar Panchayat Raj Act, 1947.

(2) It extends to the whole of the ¹[State] of Bihar except any area which has been, or may hereafter be constituted a municipality or a notified area under the provisions of the Bihar and Orissa Municipal Act, 1922, or a cantonment under the provisions of the Cantonments Act, 1924. B. & O. Act
VII of 1922.
II of 1924

(3) It shall come into force, in whole or in part, in such local area or areas and on such date or dates as the ¹[State] Government may, by notification, direct, and the ¹[State] Government may by a like notification withdraw this Act or any part thereof from any local area or part thereof with effect from such date as may be specified in that notification.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(a) “adult” means a person, male or female, who has completed his or her twenty-first year of age;

(b) “building” includes a hut, shed, house, shop, warehouse, work-shop and a *cutcherry* for the collection of rent;

(c) “case” means a criminal proceeding in respect of an offence triable by a bench of the *Gram Cutcherry*;

(d) “District Board” means a District Board established under the Bihar and Orissa Local Self-Government Act of 1885; Ben. Act III
of 1885.

(e) “Executive Committee” means the Executive Committee of the *Gram Panchayat* consisting of the *mukhiya* elected under section 10 and the members appointed under section 11;

¹ Sub. by the Adaptation of Laws Order, 1950.

(f) "*Gram Cutcherry*" means a *Gram Cutcherry* established under sub-section (1) of section 49;

(g) "*Gram Panchayat*" means a *Gram Panchayat* established under section 3;

(h) "the Government" means the Government of Bihar;

(i) "local authority" means a Municipal Committee, district board or any other authority entrusted by the Government with, or legally entitled to, the control or management of a municipal or local fund and includes any authority constituted under any law for the time being in force to administer a *Chaukidari* fund;

(j) "*Mukhiya*" means the head of the Executive Committee elected under section 10;

(k) "Munsif" with reference to a *Gram Panchayat*, means the Munsif having the local jurisdiction in the area in which such *Gram Panchayat* is constituted;

(l) "one unit of labour" means four hours of manual labour ;

(m) "prescribed" means prescribed by this Act or rules made thereunder;

(n) "public servant" means a public servant as defined XLV of 1860 in section 21 of the Indian Penal Code;

(o) "public street" means any road, street, bridge, lane, square, court, alley or passage which the public has a right to pass along, and includes on either side the drains or gutters and the land up to the defined boundary of any abutting property, notwithstanding the projection over such land of any verandah or other superstructure;

(p) "*Sarpanch*" means the head-*Panch* elected under section 51, who presides over the *Gram Cutcherry*;

(q) "Sub-Divisional Magistrate" means the Magistrate in charge of a sub-division in which a *Gram Panchayat* has been established and includes any other Magistrate who may be specially appointed by the Government to discharge all or any of the functions of the Sub-Divisional Magistrate under this Act;

(r) "suit" means a civil suit triable by a bench of the *Gram Cutcherry*; and

(s) "village" means the area defined, surveyed and recorded as a distinct and separate village in the revenue records of the district in which it is situate.

CHAPTER II

ESTABLISHMENT AND CONSTITUTION OF *Gram Panchayat*

3. (1) For every village, the Government may, by notification, establish a *Gram Panchayat* : Establishment and constitution of a *Gram Panchayat*.

Provided that the Government may, if it thinks fit, establish one *Gram Panchayat* for a group of contiguous villages or more than one *Gram Panchayat* in a big village consisting of several *Tolas*.

(2) The Government shall specify the name and the local limits of the jurisdiction of the *Gram Panchayat* in the notification mentioned in sub-section (1).

Membership
of *Gram Pan-*
chayat.

4. Every *Gram Panchayat* shall consist of all adults ordinarily residing in the village or villages or part of a village for which the *Gram Panchayat* has been established, and they shall continue to be members of the *Gram Panchayat* until they die or cease to reside in such village or villages or incur any one of the following disqualifications that is, if he or she—

- (a) is of unsound mind; or
- (b) is an undischarged insolvent; or
- (c) is convicted of an election offence under Chapter IX-A of the Indian Penal Code; or
- (d) has been sentenced for an offence involving moral turpitude :

XLV of 1860.

Provided that the disqualification under clause (c) or clause (d) may be removed by an order of the Government or of the prescribed authority.

Explanation.—For the purposes of this section, a person shall be deemed to have acquired the qualification of residence, if he dwelt in a building or part of a building situated within the village for not less than one hundred and eighty days in the aggregate during a calendar year immediately preceding the date on which the *Gram Panchayat* has been established or at any time thereafter during which he claims to be a member of the *Gram Panchayat*.

Arrangement
on the first
establishment
of a *Gram*
Panchayat.

5. (1) On the first establishment of the *Gram Panchayat*, the prescribed authority shall cause to be prepared a register in the prescribed form of persons ordinarily residing within the local limits of the jurisdiction of the *Gram Panchayat*, and such register shall, among other things, contain the names of persons entitled under the provisions of section 4 to be members of the *Gram Panchayat* on the date of its establishment.

(2) The persons entered in the register aforesaid by the prescribed authority as members shall be the first members of the *Gram Panchayat* and this register shall be revised from time to time in such manner as may be prescribed.

Incorporation
of *Gram Pan-*
chayat.

6. Every *Gram Panchayat* shall be a body corporate by the name specified in the notification under sub-section (1) of section 3, and shall have perpetual succession and a common seal and shall, by the same name, sue and be sued, and shall, subject to the provisions of this Act, have power to acquire, hold, administer and transfer property both movable and immovable, or accept a gift and to contract and do all other things necessary for the purposes of this Act.

Removal of
difficulty in
the first es-
tablishment
of *Gram Pan-*
chayat.

7. If any difficulty arises in establishing and constituting a *Gram Panchayat* in any local area, the Government may, by order, authorise any matter or thing to be done, which appears to it to be necessary for the purpose of removing such difficulty.

CHAPTER III

MEETINGS AND FUNCTIONS OF *Gram Panchayat*

8. Every *Gram Panchayat* shall hold one annual general and one half-yearly general meeting after the *kharif* and *rabi* harvests respectively, and the *mukhiya* may, or upon a requisition in writing by not less than one-fifth of the members of the *Gram Panchayat* shall call an extraordinary general meeting at any time. The time and place of all the meetings of the *Gram Panchayat* shall be notified in the prescribed manner.

Duties and functions of the *Gram Panchayat*.

9. The executive functions of the *Gram Panchayat* shall be performed by an Executive Committee of which the head shall be known as the *mukhiya*.

Mukhiya to be the head of the Executive Committee of Gram Panchayat.

10. As soon as may be after its establishment, every *Gram Panchayat* shall, in the prescribed manner, elect, from among its own number, a *mukhiya*.

Election of *mukhiya*.

11. The *mukhiya* shall in the prescribed manner appoint the members of the Executive Committee from amongst the members of the *Gram Panchayat*. The Executive Committee shall consist of not less than seven and not more than fifteen members including the *mukhiya*, and the term of the appointment of a member shall be for three years with effect from the date of his appointment or election, as the case may be, unless earlier determined under the provisions of section 13.

Appointment of the members of Executive Committee.

12. (1) The *Gram Panchayat* shall at the annual general meeting held in any year consider and pass the budget for the following year and, at the half-yearly meeting, consider the accounts of the preceding year. At both the meetings, the *Gram Panchayat* shall consider the report submitted to it on the progress of any work and the programme of such work for the coming year or half-year.

Meetings of *Gram Panchayat*.

(2) No business shall be transacted at any meeting of the *Gram Panchayat* unless at least one-fourth of the total number of its members is present.

13. (1) The *Gram Panchayat* may at any meeting specially convened for the purpose in the prescribed manner remove the *mukhiya* by a majority of votes of those present. In such an event and otherwise when there arises any vacancy in the office of *mukhiya*, the *Gram Panchayat* shall forthwith elect another *mukhiya* in the prescribed manner.

Removal and election of *mukhiya*.

(2) Where a *mukhiya* has been removed from office under sub-section (1) the Executive Committee appointed by that *mukhiya* shall be deemed to be dissolved and the newly elected *mukhiya* shall proceed to appoint the members of the new Executive Committee in the manner provided in section 11.

Compulsory
duties of
Gram Pancha-
yat.

14. Subject to such exceptions as the Government may, by general or special order, make, the *Gram Panchayat* shall undertake the control and administration of, and be responsible for—

- (a) sanitation and conservancy;
- (b) medical relief and first aid;
- (c) supply of water and the cleansing and disinfection of sources and storage of water;
- (d) the maintenance of an accurate account of crop, animal and vital statistics required by the Government;
- (e) the control and prevention of epidemics and infectious diseases;
- (f) the maintenance and construction of public streets and protection of village roads and paths;
- (g) the reporting and removal of encroachments on public streets, public places and property vested in it;
- (h) the protection and repair of any building or property vested in it;
- (i) extinguishing and fighting fire, famine, burglary and dacoity;
- (j) the management and care of *gairmazruaam* lands, common grazing grounds, burning *ghats* and graveyards and land for the common benefit of the village people;
- (k) the execution of such measures in regard to rural development schemes as the Government may direct; and
- (l) the protection and improvement of irrigation works in the village.

Supplement-
ary duties of
Gram Pancha-
yat.

15. Subject to such exceptions as the Government may, by general or special order, make, a *Gram Panchayat* may, if a majority of the members of the Executive Committee so decide, and shall, if the Government so directs or prescribes, make provision for—

- (a) the lighting of public streets;
- (b) primary education;
- (c) the registration of births, deaths and marriages;
- (d) the making of complaints under the Child Marriage Restraint Act, 1929;
- (e) planting and maintaining trees on the sides of public streets, or in other public places vested in it;
- (f) improving the breeding and medical treatment of cattle and the prevention of cattle diseases;
- (g) the construction of wells, ponds and tanks;

XIX of 1929.

- (h) assistance to the development of agriculture, commerce and industry;
- (i) the introduction and development of co-operative farming, stores and other trades and callings;
- (j) the establishment and maintenance of libraries and reading rooms;
- (k) maternity and child welfare ;
- (l) the organisation and maintenance of *akharas*, clubs and other places for recreational games;
- (m) the allotment of places for storing manure;
- (n) radio sets and gramophone;
- (o) relief of the destitute and the sick;
- (p) the management of any public ferry if vested in the *Gram Panchayat* under the Bengal Ferries Act, 1885;
- (q) the performance of such functions, as may be transferred to it under section 31 of the Cattle Trespass Act, 1871;
- (r) the promotion of agricultural credit, and of measures to relieve rural indebtedness and poverty;
- (s) filling in of insanitary depressions and reclaiming of unhealthy localities;
- (t) the promotion, improvement and encouragement of cottage industries;
- (u) the destruction of stray and ownerless dogs;
 - (v) regulating or abating of dangerous trade and practices;

Explanation.—For the purposes of this clause, the expression “dangerous trade and practice” means any trade or practice in which the substances dealt with are or are likely to become a nuisance.

- (w) the extension of village sites and the regulation of buildings in accordance with such principles as may be prescribed;
- (x) the construction and maintenance of *sarais dharmshalas* and rest-houses;
- (y) the disposal of unclaimed corpses, carcasses and unclaimed cattle;
- (z) encouragement of human and animal vaccination;
- (aa) the construction and maintenance of public latrines and markets; and
- (bb) any other local work of public utility likely to promote the health, comfort, convenience or material prosperity of the public not otherwise provided for in this Act :

Ben. Act of
1885.

Provided that nothing in this section shall be deemed to impose any duty or confer any power on the *Gram Panchayat* with respect to any matter which is under the direct administrative control of any department of the Government or local authority, unless such duty or power has been transferred or delegated to the *Gram Panchayat* by order of the Government or, as the case may be, of the local authority.

Improvement of sanitation. **16.** (1) For the improvement of sanitation, the Executive Committee shall have power to do all acts necessary for, and incidental to, the carrying out of the functions entrusted or delegated to the *Gram Panchayat* and in particular and without prejudice to the generality of the foregoing power or to the provisions of any other Act, the Executive Committee may require, by notice, the owner or occupier of any land or building, giving him reasonable time for compliance thereof—

- (a) to close, remove, alter, repair, cleanse, disinfect, or put in good order any latrine, urinal, water-closet, drain, cesspool or other receptacle for filth, sullage-water, rubbish or refuse pertaining to such land or building or to remove or alter any door or trap or construct any drain for any such latrine, urinal or water-closet which opens on to a street or drain or to shut off such latrine, urinal or water-closet by a sufficient roof and wall or fence from the view of persons passing by dwelling in the neighbourhood;
- (b) to cleanse, repair, cover, fill up, drain off, deepen or remove water from a private well, tank, reservoir, pool, pit, depression or excavation therein which may appear to the Executive Committee to be injurious to health or offensive to the neighbourhood;
- (c) to clear off any vegetation, undergrowth, prickly pear or scrub-jungle therefrom;
- (d) to remove any dirt, dung, nightsoil, manure, or any obnoxious or offensive matter therefrom and to cleanse the land or building.

(2) If a person to whom a notice has been served under sub-section (1) fails without sufficient reason to comply with the requisition made in the notice, he shall be liable to a fine which may extend to fifty rupees.

Cleansing of villages. **17.** (1) The Executive Committee may employ an establishment for the cleansing of the villages or any part thereof including public streets.

(2) Where no such establishment is employed, the Executive Committee may, by notice, require the owner or occupier of land or house in the village to cleanse or cause to be cleansed a land or public street to the satisfaction of the Executive Committee.

(3) If a person on whom a notice has been served under sub-section (2) fails without sufficient reason to comply with the requisition made in the notice, then without prejudice to any other action which the Executive Committee may wish to take against him, he shall be liable to a fine which may extend to twenty-five rupees.

18. For the purposes of medical relief and first aid, two or more *Gram Panchayats* may combine and establish and maintain an *Ayurvedic, Unani, Allopathic* or homoeopathic dispensary.

Gram Panchayats may combine to maintain Unani, Ayurvedic, Allopathic or Homoeopathic dispensaries.

Ben. Act III
of 1876.

19. The Executive Committee shall have control over all public streets and waterways other than canals, as defined in sub-section (1) of section 3 of the Bengal Irrigation Act, 1876, not being private property and not being under the control of the Government or the District Board or any other prescribed authority, and may do all things necessary for the maintenance and repair thereof and may—

Power of Executive Committee as to public streets, waterways and other matters.

- (a) construct new bridges or culverts;
- (b) divert, discontinue or close any such public street, culvert or bridge;
- (c) widen, open, enlarge or otherwise improve any such public street, culvert or bridge and with minimum damage to the neighbouring fields, plant and preserve trees on the sides of such street;
- (d) deepen or otherwise improve water-ways;
- (e) with the sanction of the District Board and where a canal exists under the Bengal Irrigation Act, 1876, with the sanction also of such officer of the Irrigation Department as the Government may prescribe, undertake irrigation projects;
- (f) trim hedges and branches of trees belonging to any one and projecting on public streets; and
- (g) notify the setting apart of any public water source for drinking or culinary purposes, and likewise to prohibit all bathing, washing of clothes and animals or other acts likely to pollute the course so set apart.

Ben. Act III
of 1876.

20. (1) The Executive Committee may, by notice require the owner of, or the person having control over, a private water-course, spring, tank, well, embankment or other place, the water of which is used by the public for drinking purpose—

Power of Executive Committee to cleanse, close, or restrict use of water from polluted source supply.

- (a) to keep and maintain the same in good repair;
- (b) to clean the same from time to time, of silt, refuse or decaying vegetation;
- (c) to protect it from pollution; and

- (d) to prevent the use of a water-course, spring, well, tank or embankment, if it has become, in the opinion of the Executive Committee, so polluted as to be prejudicial to public health.

(2) If any owner or person on whom a notice is served under sub-section (1) fails, without sufficient reason, to comply therewith, he shall be liable to a fine which may extend to twenty five-rupees, and when the failure is a continuing one, to a further fine not exceeding one rupee for each day during which the failure continues.

Power to prevent occupiers from allowing water hyacinth or any other water weed to exist within the limits of Gram Panchayat. 21. (1) The Executive Committee may, by notice require the owner or occupier of any land, premises of water in his occupation, within such period as may be specified in the notice, not to allow water hyacinth or any other water weed to exist thereon, and to eradicate the same therefrom.

(2) If any owner or occupier fails to comply with a notice under sub-section (1), he shall be liable to a fine which may extend to twenty-five rupees, and when the failure is a continuing one, to a further fine not exceeding one rupee for each day during which the failure continues.

Emergent Power on outbreak of epidemic.

22. In the event of a village situated within the local limits of a *Gram Panchayat* being visited with an out-break of cholera or any other water-borne infectious disease, the *mukhiya* or any person authorised by him in this behalf, may, during the continuance of the epidemic, without notice and at any time inspect and disinfect any well, tank, or other place from which water is, or is likely to be taken for the purpose of drinking, and may, further, take such steps as he deems fit to prevent the removal of water therefrom.

Powers of the Executive Committee on failure of persons to execute work.

23. If any work, required by any notice issued under section 16, 17, 20 or 21, is not executed within the period specified in the notice, the Executive Committee may, in the absence of satisfactory grounds for non-compliance, cause such work to be carried out and issue a certificate to recover the cost of such work or part thereof from the owner or occupier.

Control of erection of buildings.

24. (1) The Executive Committee may, after preparing a model plan for the village which has been approved by the prescribed authority, by written order—

- (a) direct that no building, wall or platform shall be erected or re-erected or added to in advance of an alignment to be prescribed by the Executive Committee and demarcated on the ground or in conflict with the model plan; and
- (b) prescribe the space which shall intervene between any new or enlarged building and the building next adjacent and between any new or enlarged building and any road in the village.

(2) Where any building, wall or platform has been erected in contravention of an order passed under sub-section (1), the *mukhiya* may apply to the Sub-Divisional Magistrate and such Magistrate may make an order:—

- (i) directing that the work done, or so much of the same as has been executed in contravention of the order passed under sub-section (1) shall be demolished by the owner of the building, wall or platform or that it shall be altered by him to the satisfaction of the Executive Committee within such time as may be fixed by the Sub-Divisional Magistrate; or
- (ii) directing that the work done, or so much of the same as has been executed in contravention of the order passed under sub-section (1), shall be demolished or altered by the Executive Committee at the expense of the owner within such time as may be fixed by the Sub-Divisional Magistrate:

Provided that the Sub-Divisional Magistrate shall not make any such order without giving the owner full opportunity of adducing evidence and of being heard.

(3) If any person to whom a direction to demolish or alter any building, wall or platform is given under clause (i) of sub-section (2) fails to obey the same, he shall be liable to a fine which may extend, in the case of a masonry building, wall or platform, to one hundred rupees, and in the case of any other building, wall or platform, to twenty-five rupees, and, when the failure is a continuing one, to a further fine, which may extend in the case of a masonry building, wall or platform, to five rupees for each day during which the failure continues.

25. All fines imposed by the Executive Committee under the provisions of section 16, 17, 20, 21 or 24 or any other section of this Act shall be approved by means of a resolution duly passed by a majority of the members of the Executive Committee at a meeting and shall be recoverable as a public demand: Procedure to be followed by the Executive Committee in imposing fines.

Provided that the Executive Committee shall not approve any such resolution without giving the person at fault full opportunity of adducing evidence and of being heard:

Provided further that an appeal against the decision of the Executive Committee under section 20, 21 or 24 shall lie before the Sub-Divisional Magistrate or any other officer empowered by him in this behalf within thirty days from the date of the said decision.

26. For general watch and ward and for meeting cases of emergency like fire, breaking of an embankment or dam, outbreak of epidemic, and occurrence of burglary or dacoity, Village volunteer force.

the Executive Committee may organise a village volunteer force under the command of a Chief Officer, who shall be appointed by the Executive Committee, and all able-bodied males of the village between the ages of 18 and 30 years shall be members of the said force.

Power to make rules for the organisation of village volunteer force.

27. The Government may make rules for—

- (a) the training, discipline and good conduct of the members of the village volunteer force;
- (b) giving gratuities to persons who have given information of out-break of fires and dacoities and to those who have rendered effective service to the force on such occasions and the meeting of expenses of the force by the Executive Committee;
- (c) the speedy attendance of the members of the force with necessary implements on the occasion of an alarm;
- (d) sending the force to help neighbouring villages, if necessary;
- (e) imposing and securing realisation of labour or equivalent cash fines from any member of the force who may infringe these rules; and
- (f) generally, for the maintenance of the force in a due state of efficiency.

Mukhiya, etc. may exercise certain powers on occasion of an emergency.

28. On the occasion of an emergency, the mukhiya, the Chief Officer or any other officer in the immediate charge of the village volunteer force may—

- (a) remove, or order any member of the force to remove, any person who by his presence interferes with the due operation of the force;
- (b) by himself or with the assistance of the force break into or through or pull down any premises, doing as little damage as possible;
- (c) call on the neighbouring village volunteer forces to render such assistance as may be necessary; and
- (d) generally, take such measures as may be necessary for the protection of life and property.

Non-liability of Chief Officer, etc., to damages.

29. The Chief Officer or any other Officer in charge of the village volunteer force or any member of the force shall not be held liable for damages on account of any act done by him in the *bona fide* belief that such act was required in the proper execution of his duties.

Chief Officer to enquire into origin of emergency and to make report to Sub-Divisional Magistrate.

30. In the case of any emergency occurring within the village, the Chief Officer of the village volunteer force shall with as little delay as possible ascertain the facts as to the origin and cause of such emergency and shall make a report thereon to the Sub-Divisional Magistrate.

31. ¹[Any officer of the Central and State Government] Assistance by mukhiya to general administration.
may, if so authorised by the Government, by general or special order, require a mukhiya to assist him in the performance of his duties within the local limits of his jurisdiction and the mukhiya shall thereupon assist him so far as it lies in his power.

32. (1) The Executive Committee may make any Representation by the Executive Committee.
representation to the proper authority in respect of the welfare of the residents within its area.

(2) On receiving a complaint from any person residing within the limits of the area of a Gram Panchayat about any misconduct in the discharge of official duties by any village officer, constable, vaccinator, patwari, canal-patrol or peon in the employ of the ¹[Government] the mukhiya may, if there be sufficient evidence, report to the proper authority which shall, after enquiry, if any, take suitable action and inform the mukhiya of the action so taken.

33. The Executive Committee may, in accordance with rules made in this behalf, enter into a contract in respect of its area with the Government or any local authority to collect all or any class of taxes or dues payable to the ¹[Government] or to such local authority on being allowed a prescribed percentage of collection charges. Power to enter into contract for collection of taxes.

34. Every member of the Executive Committee shall be jointly or severally liable for the loss, waste or misappropriation of any money or property belonging to the Gram Panchayat, if such loss, waste or misappropriation is a direct consequence of his neglect or misconduct while holding the office of mukhiya or a member of the Executive Committee and a suit for compensation or a case for breach of trust may be instituted against him by the Gram Panchayat or by the Gram Sevak, appointed under section 77, with the previous sanction of the prescribed authority: Liability of members of Committee.

Provided that if the prescribed authority sanctions the institution of a suit or case under this section or refuses to sanction, the member concerned or the Gram Panchayat, as the case may be, may, within thirty days of such sanction or refusal to sanction, appeal to the Government or an appellate prescribed authority against the said sanction or refusal:

Provided further that the Government shall also have power to institute a suit or case under this section on its own initiative.

35. (1) Subject to such rules as may be prescribed, Joint Committee.
two or more Gram Panchayats may combine by means of a written instrument duly subscribed by them to appoint a Joint Committee consisting of such representatives as may

¹ Sub. by the Adaptation of Laws Order, 1950.

be appointed by the *Gram Panchayats*, for the purpose of transacting any business or carrying out any work in which they are jointly interested and may—

(a) delegate to such Committee power, with such conditions as the *Gram Panchayats* may think proper to impose to frame schemes binding on each such *Gram Panchayat* as to the construction and future maintenance of any joint work and the power which may be exercised by any such *Panchayat* in relation to such scheme; and

(b) frame or modify rules regarding the constitution of such committee and the term of office of members thereof and the method of conducting proceedings and correspondence thereof.

(2) If any difference of opinion arises between the *Gram Panchayats* acting under this section, it shall be referred to the prescribed authority whose decision thereon shall be final.

CHAPTER IV

RELATIONSHIP OF *Gram Panchayats* WITH DISTRICT BOARDS.

Constitution of *Gram Panchayat* Committee.

36. Notwithstanding anything contained in the Bihar and Orissa Local Self-Government Act of 1885, every District Board within the limits of whose jurisdiction one or more *Gram Panchayats* exist shall appoint a *Gram Panchayat* Committee consisting of the Health Officer of the district, the District Engineer and not more than three other members of the Board.

Ben. Act III of 1885.

Gram Panchayat Committee to call for returns, reports, etc.

37. The *Gram Panchayat* Committee appointed by the District Board under section 36 may require a *Gram Panchayat* to furnish it with—

- (a) any return, statement, estimate, statistics or other information regarding any matter under its control;
- (b) a report on any such matter;
- (c) a copy of any document in its charge.

Delegation of the functions of District Board to *Gram Panchayat*.

38. (1) A District Board may, with the concurrence of the *Gram Panchayat* and subject to such restrictions or conditions as may be mutually agreed upon between such District Board and the *Gram Panchayat*, delegate to such *Gram Panchayat* any of its functions, except—

- (a) functions for the discharge of which the District Board is required by or under any enactment for the time being in force to appoint a Committee;
- (b) functions in respect of which specific powers of delegation to the *Gram Panchayat* are conferred by any such enactment; and
- (c) the power of borrowing money.

(2) Where functions are delegated to the *Gram Panchayat* under this section, the *Gram Panchayat* in the discharge of these functions, shall act as the agent of the District Board.

39. When any project is framed for execution, the cost of which is likely to exceed five hundred rupees, the work shall not be commenced until the project has been sanctioned by the *Gram Panchayat* Committee and if any material change is made in the project after it has been sanctioned, such change shall not be carried into effect unless and until it has similarly been sanctioned by the *Gram Panchayat* Committee.

Execution of projects costing more than five hundred rupees.

CHAPTER V

ACQUISITION OF LAND, THE *Gram Panchayat* FUND AND PROPERTY

40. Where the Executive Committee of a *Gram Panchayat* or the Executive Committees of a number of *Gram Panchayats* which have joined in furtherance of a common cause require land to carry out any purpose of this Act, it or they shall first negotiate with the person or persons having interest in such land and if the parties fail to reach an agreement, the Executive Committee or Committees may make an application in the prescribed form to the Collector to acquire the land and the Collector may proceed to acquire the land under the Land Acquisition Act, 1894.

Power to acquire land.

I of 1894

41. For each *Gram Panchayat*, there shall be formed a *Gram Panchayat* Fund and there shall be placed to the credit thereof such proceeds of tax and other moneys received by it as may be prescribed.

Gram Panchayat Fund.

42. Subject to any other law and any general or special order of the Government in this behalf, all public property, situated within the area of the *Gram Panchayat* shall vest in and belong to the *Gram Panchayat* and shall, with all other property, which may become vested in the *Gram Panchayat*, be under its direction, management and control.

Property vested in the Gram Panchayat.

43. All markets and fairs or such portions thereof as are held upon public land shall be managed and regulated by the Executive Committee and all dues levied or imposed in respect thereof shall be credited to the *Gram Panchayat* Fund.

Proceeds of dues levied in respect of markets and fairs to be credited to the Gram Panchayat Fund.

44. (1) Where any dispute arises as to the ownership of any property mentioned in sections 42 and 43 between a *Gram Panchayat* and any person, the Executive Committee shall give all such persons a reasonable opportunity of being heard and decide whether the said property belongs to the *Gram Panchayat*.

Disposal of claims.

(2) An appeal against the decision of the Executive Committee under sub-section (1) shall lie to the full bench of the *Gram Cutcherry* consisting of the *Sarpanch* and all the *Panchas* and shall be heard by it in the prescribed manner.

Power
borrow.

to 45. A *Gram Panchayat* may, with the sanction of the prescribed authority and subject to such conditions as may be prescribed, borrow money to carry out any of its purposes.

CHAPTER VI

TAXATION

Compulsory
taxes.

46. Subject to the prescribed rules and any general or special orders of the Government in this behalf, the taxes which a *Gram Panchayat* shall impose are—

- (a) a labour tax involving the rendering of manual labour to the *Gram Panchayat* by all able-bodied males between the prescribed age-limits for a prescribed number of units of labour, and
- (b) a tax in cash at the prescribed rate payable by persons owning immovable property in its area :

Provided that no person shall be made to render manual labour for less than twelve units of labour during any one year :

Provided further that a person assessed to labour tax may, instead of rendering manual labour, deposit in the *Gram Panchayat* Fund within two months after the commencement of the year for which the tax is assessed a cash payment equal to the wages of labour calculated in accordance with the rate of wages prevailing in the village as determined by the *mukhiya*.

Supplemen-
tary taxes.

47. (1) Subject to the prescribed rules and any general or special orders of the Government in this behalf, a *Gram Panchayat* may levy—

- (a) a license fee on persons practising as professional buyers, brokers, commission agents, weighers or measurers;
- (b) with the previous sanction of the Government, a tax on persons exercising any calling (other than agriculture), profession or trade within the jurisdiction of the *Gram Panchayat*;
- (c) a tax on vehicles, pack animals and porters bringing goods for sale into the village;
- (d) fees on goods exposed for sale in any market or place belonging to, or under the control of, the *Gram Panchayat*;
- (e) fees on registration of animals sold within the village area ;

- (f) fees for the use of *sarais*, *dharmshalas*, rest-houses and encamping grounds vesting in the *Gram Panchayat*;
- (g) a water-rate, where water is supplied by the *Gram Panchayat*;
- (h) a latrine tax where arrangement for the service of latrines is made by the *Gram Panchayat*;
- (i) a lighting rate where lighting of public streets, places and buildings is undertaken by the *Gram Panchayat*;
- (j) a drainage fee where a system of drainage has been introduced by the *Gram Panchayat*;
- (k) a pilgrim tax at places of worship and pilgrimage within the village, if approved by the Government;
- (l) any other tax, toll, fee or rate approved by the Government :

Provided that the Executive Committee may, subject to an immediate report being submitted to the Government or the prescribed authority, impose an emergency tax on the occurrence of any emergency and that the said tax shall at any time cease to be levied if so directed by the Government or the prescribed authority:

Provided further that no tax, toll, fee or rate shall be levied if such tax, toll, fee or rate has already been levied by the District Board in the *Gram Panchayat* area :

Provided further that no tax, toll, fee or rate shall be levied by a *Gram Panchayat* if such tax, toll, fee or rate has already been levied by another *Gram Panchayat* in respect of the same person or thing as is specified in clause (a), (b), (c) or (d).

(2) No objection shall be taken to any assessment, nor shall the liability of any person to be assessed or taxed be questioned, otherwise than in accordance with the provisions of this Act or the rules made thereunder.

B. & O. 48. When any area included in a Union Board to which the provisions of the Bihar and Orissa Village Administration Act, 1922, apply, is at any time transferred to a *Gram Panchayat* then until a new assessment is made under this Act any assessment, rate or tax which was in force in such Union Board under the provisions of the said Act shall continue to be in force and all sums due on account of such rate or tax shall be realised under the provisions of this Act and shall be credited to the *Gram Panchayat* Fund.

Continuance of taxes levied in any area included in a Union Board subsequent to its transfer to a *Gram Panchayat*.

CHAPTER VII

ESTABLISHMENT, POWERS, DUTIES AND PROCEDURE OF *Gram Cutcherry* AND BENCHES THEREOF

49. (1) Every *Gram Panchayat* shall, for the purposes of discharging the judicial functions imposed upon it by or under this Act, establish a *Gram Cutcherry* consisting of

Election of *Panchas*.

a panel of fifteen persons of the prescribed qualifications to be elected by the *Gram Panchayat* in the prescribed manner, and a list of the persons so elected shall be affixed to the notice board of the office of the *Gram Panchayat* and published in the area subject to its jurisdiction in such manner as the Executive Committee may prescribe in this behalf.

(2) The persons elected by the *Gram Panchayat* under sub-section (1) shall be known as *Panchas*.

Term of
office of
Panch.

50. The term of office of every *Panch* shall be three years from the date of his election.

Election of
Sarpanch.

51. A *Sarpanch* shall be elected by the panel of *Panchas* from amongst themselves in the prescribed manner, and he shall be in charge of the prescribed registers and shall, subject to the provisions of this Act, be the President of the *Gram Cutcherry* and benches thereof.

Removal of
Sarpanch or
Panch.

52. (1) A *Sarpanch* or *Panch* may be removed by the Government on a recommendation of the prescribed authority for misconduct, incapacity, neglect of duty or for any other sufficient cause.

(2) No *Sarpanch* or *Panch* who has been removed from his office under sub-section (1) shall be eligible for re-election within a period of five years from the date of his removal.

Resignation
by *Sarpanch*
or *Panch*.

53. A *Sarpanch* or *Panch* may resign during his term of office by notifying in writing his intention to do so to the *mukhiya* and on such resignation being accepted by the Executive Committee shall be deemed to have vacated his office.

Filling of
casual vacan-
cies.

54. When the place of a *Sarpanch* or *Panch* becomes vacant by his removal, resignation or death, a new *Sarpanch* or *panch*, as the case may be, shall be elected in the manner prescribed and he shall hold office so long as the *Sarpanch* or *Panch* whose place he fills would have been entitled to hold office if such vacancy had not occurred.

Members of
Executive
Committee
not eligible
to be *Panchas*.

55. No *mukhiya* or other members of the Executive Committee shall be eligible to be a *Panch*.

Sarpanch or
Panch not to
take part in
certain pro-
ceedings.

56. No *Sarpanch* or *Panch* shall take part in any proceedings in which he is personally interested.

Institution
and hearing
of suits and
cases.

57. Every suit or case instituted under this Act shall be instituted before the *Sarpanch* and shall be heard and determined by a bench of the *Gram Cutcherry* consisting of the *Sarpanch* and two *Panchas* from the panel to be named by the respective parties to the suit or case:

Provided that—

(i) if any party does not nominate a *Panch* within such time as may be prescribed, the *Sarpanch* shall nominate a *Panch* from the panel;

(ii) if in any suit or case the *Sarpanch* is unable to take part in the proceedings by virtue of the provision of section 56, the panel of *Panchas* shall elect a *Panch* from amongst its own number and the *Panch* so elected shall discharge all the functions of the *Sarpanch* for the purposes of the said suit or case;

(iii) if the services of the *Sarpanch* cease to be available at any time after the institution but before the determination of the suit or case, he may nominate a *Panch* in his place or where no such nomination has been made the senior most *Panch* of the *Gram Cutcherry* shall act for him; and

(iv) if the services of a *Panch* cease to be available at any time after the institution, but before the determination of the suit or case, the party which nominated that *Panch* shall be asked to nominate another *Panch* from the panel within the prescribed time.

58. A bench of the *Gram Cutcherry*, while hearing a suit or trying a case under the provisions of this Act, other than a case arising out of a non-compoundable offence, shall after giving such notice to the parties and in such manner as it thinks fit, endeavour to bring about an amicable settlement between the parties and for this purpose the bench shall, in such manner as it thinks fit and without delay, investigate the suit or case and all matters affecting the merits thereof and the right settlement thereof, and in so doing may do all such lawful things as it thinks fit for the purpose of inducing the parties to come to a fair and amicable settlement; and where such a settlement is brought about, the bench shall record the same and give its decision accordingly.

59. Where a bench of the *Gram Cutcherry* does not succeed in bringing about an amicable settlement under the preceding section, or otherwise takes up the hearing or trial of a suit or case, it shall make an enquiry, receive such evidence as it considers necessary and record its judgment and in the event of the members of the bench disagreeing, the decision of the majority shall prevail:

Provided that nothing hereinbefore contained shall be deemed to prevent any member of the bench from placing on record his minute of dissent against such decision.

60. Subject to the provisions of this Act and to any rules or directions that may be made or issued by the Government in this behalf, the procedure to be followed by a bench of the *Gram Cutcherry* shall be such as it may consider just and convenient and the bench shall not be bound to follow any laws of evidence or procedure other than the procedure prescribed by or under this Act.

61. The decision of a bench of the *Gram Cutcherry*, shall be in writing and shall be signed by all its members. It shall contain such particulars as may be prescribed by rules made by the Government in this behalf.

Criminal
jurisdiction.

62. Notwithstanding anything contained in the Code of Criminal Procedure 1898, and subject to the provisions V of 1898, of this Act, a bench of the *Gram Cutcherry* shall have jurisdiction concurrent with that of the Criminal Court within the local limits of whose jurisdiction the bench is situate for the trial of the following offences as well as abetment of and attempts to commit any such offence if committed within the local limits of its jurisdiction, namely :—

(a) offences under the Indian Penal Code, sections XLV of 140, 143, 145, 147, 151, 153, 160, 172, 174, 178, 179, 269, 1860, 277, 279, 283, 285, 286, 289, 290, 294, 323, 334, 336, 341, 352, 356, 357, 358, 374, 379, 380, 381, 403, 411, 426, 428, 430, 447, 448, 461, 504, 506, 510;

(b) offences under the Bengal Public Gambling Act, Ben. Act II of 1867;

(c) offences under sections 24 and 26 of the Cattle I of 1871. Trespass Act, 1871;

(d) except as otherwise provided, offences under this Act or under any rule or bye-law made thereunder;

(e) any other offence under any other enactment, if empowered in this behalf by the Government :

Provided that the bench shall not take cognizance of any offence under section 379, 380, 381 or 411 of the Indian Penal Code in which the value of the property XLV of 1860. alleged to be stolen exceeds fifty rupees or in which the accused—

(i) has been previously convicted of an offence punishable under Chapter XVII of the Indian Penal Code with imprisonment of either XLV of 1860 description for a term of three years or upwards; or

(ii) has been previously fined for theft by any bench of the *Gram Cutcherry*; or

(iii) is a registered member of a criminal tribe under section 4 of the Criminal Tribes Act 1924; VI of 1924- or

(iv) has been bound over to be of good behaviour in proceedings instituted under section 109 or 110 of the Code of Criminal Procedure, V of 1898. 1898.

Criminal
powers of a
bench of the
Gram Cutcher-
ry.

63. A bench of the *Gram Cutcherry* shall, in respect of the trial of cases, be deemed to be vested with the powers of a Magistrate of the third class.

Criminal
powers of
Sarpanch.

64. (1) Whenever the *Sarpanch* has reason to believe that a breach of the peace or disturbance of the public tranquillity is imminent and immediate prevention or speedy remedy is desirable, he may call upon the parties to the dispute to show cause why they should not be bound with or without sureties for keeping the peace for a period not exceeding fifteen days.

(2) As soon as the *Sarpanch* has issued notice under sub-section (1), he shall submit the proceedings of the case to the Sub-Divisional Magistrate who may either confirm the order or discharge the notice after hearing the parties to the dispute, if they so desire.

65. Notwithstanding anything contained in the Bengal, Agra and Assam Civil Courts Act, 1887, the Provincial Small Cause Courts Act, 1887, and the Code of Civil Procedure, 1908, and subject to the provisions of this Act, a bench of the *Gram Cutcherry* shall have jurisdiction to hear and determine the following classes of suits when the value of the suit does not exceed one hundred rupees, namely :—

XIII of 1887.
IX of 1887.
V of 1908.

Exclusive civil jurisdiction of a bench of the *Gram Cutcherry*.

- (a) suits for money due on contracts;
- (b) suits for the recovery of movable property or the value of such property;
- (c) suits for the recovery of rent; and
- (d) suits for compensation for wrongfully taking or injuring movable property, or for damaged property caused by cattle trespass :

Provided that a bench which is specially empowered by notification in this behalf by the Government may hear and determine such suits when the value of the suit exceeds one hundred rupees, but does not exceed two hundred rupees :

Provided further that the parties to a suit of the above description may by a written agreement refer the suit to the bench for decision irrespective of the value of the suit, and the bench shall subject to such rules as may be prescribed as to court-fees and other matters, have jurisdiction to hear and determine the said suit under this Act :

Provided further that a bench of the *Gram Cutcherry* shall by a written agreement of the parties have jurisdiction concurrent with that of the Civil Court to hear and determine a suit of any description irrespective of the value of the suit, subject to such rules as may be prescribed as to court-fees and other matters.

66. No suit shall lie in any bench of the *Gram Cutcherry*—

Certain suits not to be heard by a bench of the *Gram Cutcherry*.

- (a) on a balance of partnership account, or
- (b) for a share or part of a share under an intestacy or for a legacy or part of a legacy under a will, or
- (c) by or against ¹[the Central or State Government or servants of such Government] in their official capacity, or
- (d) by or against minors or persons of unsound mind, or
- (e) for the assessment, enhancement, reduction, abatement or apportionment of rent of immovable property, or

¹ Sub. by the Adaptation of Laws Orders, 1950.

- (f) of a mortgagee of immovable property for the enforcement of the mortgage by foreclosure or sale of the property or otherwise or by a mortgagor of immovable property for the redemption of the mortgage.

Appeals

67. An appeal against any order or decision of a bench of the *Gram Cutcherry* shall be preferred within a period of thirty days after the date of the passing of such order or decision to the full bench of the *Gram Cutcherry* consisting of the *Sarpanch* and all the *Panchas* and shall be heard by it in the prescribed manner. The decision of the full bench on any such appeal shall be final.

No Court to take cognizance of cases or suits taken cognizance of by a bench of the *Gram Cutcherry*.

68. No Court shall take cognizance of any case or suit which is cognizable under the Act by a bench of the *Gram Cutcherry* unless an order to the contrary has been passed by the Sub-Divisional Magistrate or the Munsif concerned under the provisions of the Act, or any other law for the time being in force.

Transfer of cases or suits to a bench of the *Gram Cutcherry* by Magistrates or Munsifs.

69. If at any stage of proceedings in a case or suit pending before a Magistrate or Munsif, it appears that the case or suit is one triable by a bench of the *Gram Cutcherry*, the Sub-Divisional Magistrate or the Munsif, as the case may be, shall, if he is satisfied that it is a suit or case which is fit to be tried by it, at once transfer the case or suit to the bench having jurisdiction.

Withdrawal of cases.

70. The Sub-Divisional Magistrate or the Munsif may of his own motion or on information received, withdraw any case or suit pending before a bench of the *Gram Cutcherry* if for reasons to be recorded by him in writing he is of opinion that the case or suit is complicated or not otherwise proper to be tried or heard by the bench and may try or hear the case or suit either himself or transfer it to another competent Magistrate or Munsif for disposal.

No legal practitioner to appear.

71. No legal practitioner or person declared or known to the *Gram Cutcherry* to be a tout shall appear, plead or act on behalf of any party in any suit or case before the benches thereof.

Appearance in person or by representatives.

72. Subject to the provisions of section 71, any party to a suit or case may appear before a bench of the *Gram Cutcherry* either in person or by such servant, personal relation or friend duly authorised by him as the bench may admit as a fit person to represent him.

Power of Sub-Divisional Magistrate and Munsif over a bench of the *Gram Cutcherry*.

73. (1) If there has been a miscarriage of justice or if there is an apprehension of miscarriage of justice, in any case or suit, the Sub-Divisional Magistrate in respect of any case and the Munsif in respect of any suit may, on the application of any party or of his own motion, at any time during

the pendency of the suit or case and within 60 days from the date of a decree or order, call for the record from a bench of the *Gram Cutcherry* and may for reasons to be recorded in writing—

- (a) cancel the jurisdiction of the bench with regard to the suit or case; or
- (b) quash any proceedings of the bench at any stage; or
- (c) cancel any order or decree passed by the bench.

(2) When an order has been passed by a Munsif or the Sub-Divisional Magistrate under sub-section (1) in respect of any suit or case, as the case may be, the complainant or plaintiff, as the case may be, may institute the case or suit afresh in the Court of the Sub-Divisional Magistrate or a Munsif of competent jurisdiction.

(3) Except as aforesaid, and as provided in section 67, an order or decree passed by a bench of the *Gram Cutcherry* in any case or suit under this Act shall be final and shall not be open to appeal or revision in any Court.

74. No suit shall be entertained by a bench of the *Gram Cutcherry* after the expiration of three years from the date when the right to sue first accrued: ^{Limitation of suits.}

Provided that the period of limitation for suits specified in the first column of the Schedule when instituted before a bench of the *Gram Cutcherry* shall be the period specified in the corresponding entry of the second column thereof :

Provided further that for a period of one year after the first establishment of a *Gram Cutcherry* if a suit in regard to which a bench of the *Gram Cutcherry* has exclusive jurisdiction under section 65 is barred by the provisions of this section but is not barred by the Indian Limitation Act, 1908, the suit may be instituted before the ordinary Civil Court.

IX of 1908.

75. No bench of the *Gram Cutcherry* shall try any suit in which the matter directly and substantially in dispute has been heard and decided by a Court of competent jurisdiction in a former suit between the same parties, or between parties under whom they or any of them claim, or is pending for decision in the same Court or in any other Court in a previously institute suit between the same parties or between parties under whom they or any of them claim. ^{Res judicata and pending suits.}

76. The District Judge, the District Magistrate and the Sub-Divisional Magistrate shall have power at all times to inspect the proceedings and records of a *Gram Cutcherry* or benches thereof. ^{Control of District Judge, District Magistrate and Sub-Divisional Magistrate over the *Gram Cutcherry* or benches thereof.}

CHAPTER VIII

APPOINTMENT OF *Gram Sevak*

Gram Sevak. 77. For every *Gram Panchayat*, the Government may appoint a *Gram Sevak* who shall be in charge of the office of the *Gram Panchayat* and be responsible for the preparation of a programme of schemes and works to be executed under this Act during a particular year, and shall submit the same to the Executive Committee for approval.

Gram Sevak to execute or work executed within the time fixed in the programme work on the approved under section 77 or to make any reasonable progress, the *Gram Sevak* after obtaining the orders of the prescribed authority may proceed to get the scheme or work executed himself at the expense of the *Gram Panchayat* Fund.

CHAPTER IX

DISQUALIFICATIONS OF A *Mukhiya*, MEMBER OF THE EXECUTIVE COMMITTEE, *Sarpanch*, *Panch*, ETC.

Disqualifications of *mukhiya*, member of Executive Committee, *Sarpanch*, *Panch*, *Gram Sevak*, etc. 79. Notwithstanding anything contained in this Act, a person shall be disqualified for election, nomination or appointment as a *mukhiya*, member of the Executive Committee, *Sarpanch*, *Panch* or *Gram Sevak* if such person—

- (a) ¹[is not a citizen of India];
- (b) is in the service of ¹[the Central or State Government] or any local authority;
- (c) has been adjudged by a competent Court to be of unsound mind;
- (d) is under twenty-five years of age;
- (e) has been dismissed from the service of ¹[the Central or State Government] or any local authority for misconduct and has been declared to be disqualified for employment in the public service;
- (f) has been sentenced by a Criminal Court, whether within or without India, to imprisonment for an offence, other than a political offence, for a term exceeding six months, or to transportation, or has been ordered to furnish security for good behaviour under section 109 or section 110 of the Code of Criminal Procedure, 1898, such ^{V of 1898.} sentence or order not having subsequently been reversed or remitted, or the offender not having been pardoned;
- (g) has under any law for the time being in force become ineligible to be a member of any local authority;

¹ Sub. by the Adaptation of Laws Order, 1950.

- (h) holds any salaried office or place of profit in the gift or disposal of a *Gram Panchayat*;
- (i) has directly or indirectly any share or interest in any contract with, by or on behalf of the *Gram Panchayat*, while owning such share or interest;
- (j) is a leper;
- (k) is in arrears for such period as may be prescribed of any tax, toll, fee or rate due from him to the *Gram Panchayat*;
- (l) has been found guilty of a corrupt practice;
- (m) does not reside in the *Gram Panchayat* area:

Provided that in cases of (b), (e), (f), (h) and (i) the disqualification may be removed by a general or special order of the Government in this behalf:

Provided further that in the case of a person who has been found guilty of a corrupt practice, the disqualification shall cease immediately after the general election next ensuing.

Explanation I.—A person shall not, by reason of being a shareholder in, or a member of, any incorporated or registered company, be held to be interested in any contract entered into between the company and the *Gram Panchayat*.

Explanation II.—For the purpose of this section, a person shall be deemed to have acquired the qualification of residence if he dwelt in a house or part of a house in the *Gram Panchayat* area for not less than one hundred and eighty days in the aggregate in the calendar year preceding that in which that election is held or his election, nomination or appointment takes place.

CHAPTER X

MISCELLANEOUS PROVISIONS

80. (1) The ¹[State] Government may, after previous Power to publication, make rules for carrying out the purposes of this make rules. Act.

(2) In particular and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely:—

- (a) the establishment of any authority under, and the exercise and performance of powers and duties conferred and imposed upon it by this Act;

¹Sub. by the Adaptation of Laws Order, 1950.

- (b) the records and registers that shall be maintained by a *Gram Panchayat* and a bench of the *Gram Cutcherry* and the manner in which the register under sub-section (2) of section 5, shall be revised;
- (c) the manner of notifying the time and place of a meeting of a *Gram Panchayat*;
- (d) the manner of electing a *mukhiya*;
- (e) the manner in which the Executive Committee shall be appointed;
- (f) the manner of convening a meeting of the *Gram Panchayat* specially for the purpose of removing a *mukhiya*;
- (g) the officer of the Irrigation Department with whose sanction the Executive Committee may undertake irrigation projects;
- (h) the manner in which the Executive Committee may enter into a contract with the Government or any local authority to collect taxes or dues on its behalf and the percentage to be allowed as collection charges;
- (i) the conditions subject to which two or more *Gram Panchayats* may combine to appoint a Joint Committee;
- (j) the forms to be used under this Act;
- (k) the proceeds of taxes and fees which shall be placed to the credit of the *Gram Panchayat* Fund;
- (l) the conditions subject to which a *Gram Panchayat* may borrow money;
- (m) the imposition of taxes by a *Gram Panchayat*;
- (n) the age-limits of all able-bodied males liable to render manual labour to a *Gram Panchayat* and the number of units of labour to be rendered by them;
- (o) the rate of tax in cash payable by owners of immovable property;
- (p) the levy of supplementary taxes by a *Gram Panchayat*;
- (q) the qualifications and the manner of election of *Panchas* and the manner of publication of their names;
- (r) the time within which a *Panch* shall be nominated by a party;
- (s) the procedure to be followed by a bench of the *Gram Cutcherry* in deciding suits and cases;
- (t) the particulars to be contained in the decision of a bench of the *Gram Cutcherry*;

- (u) the court-fee to be paid by the parties to a suit before a bench of the *Gram Cutcherry* and the conditions subject to which a bench of the *Gram Cutcherry*, with the consent of parties, shall entertain a suit which is otherwise beyond its jurisdiction; and
- (v) any other matter by this Act required, or expressly or impliedly authorised, to be prescribed.

81. Notwithstanding anything contained in the Bihar Power of District Board to make bye-laws. Ben. Act III of 1885. and Orissa Local Self-Government Act of 1885, a District Board may, and when required by the Government shall, make bye-laws for a *Gram Panchayat* within its jurisdiction consistent with the provisions of this Act and the rules made thereunder for the purpose of promoting or maintaining the health, safety and convenience of persons residing within the local area of a *Gram Panchayat*.

82. (1) Subject to the provisions of this Act and the rules made thereunder and the bye-laws, if any, made by the District Board, the *Gram Panchayat* Committee constituted under section 36 may frame bye-laws—

- (a) to prohibit the removal or use of water for drinking purposes from any source which is likely to cause danger to health and to prohibit the doing of anything likely to contaminate any source of drinking water;
- (b) to prohibit or regulate the discharge of water from any drain or premises on a public street or into river, pond, tank, well or any other place;
- (c) to prevent damage to public streets and the property of a *Gram Panchayat*;
- (d) to regulate sanitation, conservancy and drainage in its area;
- (e) to prohibit or regulate the use of public streets or other public places by shop-keepers or other individuals or collection of market tolls on public streets;
- (f) to regulate the manner in which tanks, ponds and cesspools shall be maintained and used.

(2) The draft of the bye-laws to be framed by the *Gram Panchayat* Committee under sub-section (1) shall be published in the prescribed manner. Any objection with regard to the draft shall in the first instance be considered at a meeting of the Executive Committee and a draft of the bye-laws together with the objections, if any, received and the recommendation, if any, of the Executive Committee shall be submitted to the *Gram Panchayat* Committee for such order as it may think fit. After approval by the *Gram Panchayat* Committee, the bye-laws shall be submitted to the District Board for confirmation. On confirmation, the bye-laws shall come into force after they have been published in the prescribed manner.

Public
servant.

83. Every member of a bench of the *Gram Cutcherry*, the *mukhiya* and the *Gram Sevak* shall be deemed to be a public servant.

Bar of civil
suit for things
done in good
faith.

84. No suit shall be maintainable against any member of a bench of the *Gram Cutcherry* or Executive Committee or the *Gram Sevak* or any officer or servant thereof or any person acting under the direction of any such bench or Executive Committee or *Gram Sevak* or officer or servant in respect of anything lawfully and honestly and with due care and attention done under this Act or any rule or bye-law thereunder.

Delegation of
powers.

85. The Government may, by notification, delegate all or any of its powers under this Act, except the power to make rules, to any authority which it thinks fit.

THE SCHEDULE

(See section 74)

Period of limitation for certain suits

	Description of suit	Period of limitation	Time from which period begins to run
1.	For the wages of a house-hold servant, artisan or labourer.	One year	When the wages accrued due.
2.	For the price of food or drink supplied by a keeper of a hostel, tavern or lodging-house.	Do.	When the food or drink was delivered.
3.	For the rent of lodging.	Do.	When the rent became payable.
4.	For money due on a contract.	Three years	When the money became due to the plaintiff.
5.	For the recovery of movable property or the value thereof.	One year	When the plaintiff became entitled to the delivery of the movable property.
6.	For compensation for wrongfully taking or injuring a movable property.	Do.	When the movable property was wrongfully taken or when injury was done to it.
7.	For damages caused by cattle trespass.	Six months	When the damage was caused by the cattle trespass.

THE BOMBAY VILLAGE PANCHAYATS ACT, 1933

Bombay Act VI of 1933¹

An Act to amend and consolidate the law relating to the constitution of Village Panchayats.

WHEREAS it is expedient to amend and consolidate the law relating to the constitution of village panchayats, with a view to fostering their growth and of increasing their utility in the further development of local self-government in rural areas and in the administration of civil and criminal justice, and whereas the previous sanction of the Governor-General required by sub-section (3) of section 80A of the Government of India Act and of the Governor required under section 80C of the said Act have been obtained for the passing of this Act; it is hereby enacted as follows :—

5 & 6 Geo.
V, c. 61.

CHAPTER I

PRELIMINARY

1. This Act may be called the Bombay Village Pancha- Short title.
yats Act, 1933.

2. It extends to the whole of the Presidency of Bombay Extent.
except ²[Greater Bombay].

3. In this Act, unless there is anything repugnant in Definitions.
the subject or context—

³[(1) 'Scheduled Tribes' means such tribes or tribal communities or parts of or groups within such tribes or tribal communities as are deemed to be Scheduled Tribes in relation to the State of Bombay under article 342 of the Constitution of India;]

⁴[(1A)] "by-laws" means by-laws made by the district local board under section 109;

¹ For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1932, Pt. V, pp. 200—211, for Report of the Select Committee, see *ibid.*, 1933, Pt. V, pp. 1—14 and for Proceedings in Council, see *Bombay Legislative Council Debates*, 1932, Vol. XXXV, 1933, Vol. XXXVII.

² These words were substituted for the words 'The city of Bombay' by Act XVII of 1945, s. 9 read with Act VIII of 1950.

³ Sub. by s. 7 of Act XVII of 1950.

⁴ This clause was renumbered as clause (1A), by sec. 2 (ii) of Act XVIII of 1939.

(2) "case" means, with reference to any judicial proceedings, a criminal proceeding in respect of any offence triable by a ¹[nyaya panchayat];

(3) "chairman" means the chairman of a ¹[nyaya panchayat] appointed under ²[section 37A];

(4) "district local board", used with reference to any local area, means a district local board established under the Bombay Local Boards Act, 1923, for the district in which such local area is situated; Bom. VI of 1923

³[(5) "Scheduled Castes" means such castes or tribes or parts of or groups within such castes, races or tribes as are deemed to be Scheduled Castes in relation to the State of Bombay under article 341 of the Constitution of India and until the notification in relation to the State of Bombay is issued under that article, means Scheduled Castes as defined in the Government of India (Scheduled Castes) Order, 1936];

(6) "offence" means any act or omission made punishable by any law for the time being in force;

(7) "panchayat" means a panchayat established under this Act;

(8) "prescribed" means prescribed by rules;

(9) "revenue village" means any local area which is recognised as a village in the revenue accounts;

(10) "rules" means rules made by ³[the ⁴[State] Government] under section 108;

(11) "sarpanch" means a sarpanch elected under section 14;

(12) "school-board" means a school-board constituted under ⁵[section 4] of the Bombay Primary Education Act, 1947; Bom. LXI of 1947.

(13) "suit" means a civil suit triable by a ¹[nyaya panchayat] under this Act;

(14) "tax" means a tax, cess, rate, or other impost leviable under this Act, ⁷[but does not include a fee];

¹ These words were substituted for the words "village bench" or "bench" by Bom. LX of 1947, s. 25.

² The word, figures and letters "section 37A" were substituted for the words, brackets and figures "sub-section (4) of section 37" by Bom. XVIII of 1939, section 2 (iii).

³ The words "the State Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

⁴ Sub. by the Adaptation of Laws Order, 1950.

⁵ This word and figure were substituted for the word and figure "section 3" by Bom. XLV of 1949, section 2.

⁶ These figures were substituted for the figures "1923", *ibid.*

⁷ Ins. by s. 2 of Act XXXI of 1950.

⁸ Subs. by s. 7 of Act XVII of 1950.

(15) the expression "the term of a panchayat" means the period for which the elected members thereof shall hold office under section 11;

(16) "village" means any local area declared to be a village under section 4;

(17) "[nyaya panchayat]" means a ¹[nyaya panchayat] constituted under ²* * * * section 37 for the purpose of the trial of suits and cases.

CHAPTER II

ESTABLISHMENT AND CONSTITUTION OF PANCHAYATS

³4. (1) Whenever the ⁴[State] Government after Declaration making such inquiry as may be prescribed is satisfied that of village. any local area comprising a revenue village or a group of revenue villages or hamlets forming part of a revenue village has a population of not less than 2,000, it shall, by notification in *Official Gazette*, declare such local area to be a village :

Provided that the ⁴[State] Government may, by notification in the *Official Gazette*, direct that any local area having a population of less than 2,000 shall be declared a village under this section.

(2) The ⁴[State] Government may after consultation with the district local board by like notification at any time—

(a) include within any village or exclude from any village any local area or otherwise alter the limits of any village, or

(b) declare that any local area shall cease to be a village.]

5. In every village declared to be such under section Establish-
4, there shall be a panchayat. ment of
panchayats.

⁵6. (1) A panchayat shall consist of ⁶* * * * * Constitution
such number of elected members, not being less of pancha-
than seven or more than ⁷[fifteen] in number, as the yats.
Collector ⁸* * * * * may determine.

¹ These words were substituted for the words "village bench" or "bench" by Bom. LX of .

² 25. The words, brackets and figure "sub-section (1) of" were deleted by Bom. XVIII of 1939, s.

³ Section 4 was substituted for the original, *ibid.*, s. 3.

⁴ Sub. by the Adaptation of Laws Order, 1950.

⁵ Section 6 was substituted for the original by Bom. XVIII of 1939, s. 4.

⁶ Clauses (i) and (ii) and the figures (iii) of clause "(ii)" which were inserted by Bo
1915, s. 2 (i) were deleted by Bom. LX of 1947, s. 2.

⁷ This word was substituted for the word "eleven" by Bom. LX of 1947, S. 4(a).

⁸ These words "after consultation with the district local board" were deleted by Bom. XI

In any such panchayat such number of seats shall be reserved for the representatives of women, ¹[Scheduled Castes and Scheduled Tribes] as may be prescribed by the ²[State] Government under clause (b) of sub-section (1) of section 108 :

Provided that no such seat shall be reserved for the representatives of ¹[Scheduled Castes and Scheduled Tribes] in any panchayat unless the ²[State] Government is of the opinion that the reservation of such seats is necessary having regard to the population of such ¹[Castes and Tribes] in the village.

³[(1A) Notwithstanding anything contained in sub-section (1), the reservation of seats for women the Scheduled Castes and the Scheduled Tribes prescribed under clause (b) of sub-section (1) of section 108 shall cease to have effect on the expiration of the period of ten years from the commencement of the Constitution of India:

Provided that nothing in this section shall render any person elected to any of such reserved seats ineligible to continue as a member during the term of the office for which he or she was validly elected, by reason only of the fact that the reservation of seats has so ceased to have effect.]

(2) Where the Collector ** * * * * determines that the number of elected members of a panchayat shall exceed seven, failure to elect more than seven such members shall not affect the constitution of a panchayat.

(3) If for any reason the election does not result in the return of the required number of qualified persons willing to take office, the ⁵[standing committee of the district local board] shall, within ⁶[eight] weeks from the date on which the names of elected members are published ⁷[in the prescribed manner by the collector], appoint the required number of persons, being persons who would have been qualified to be elected. If the ⁵[standing committee of the district local board] fails to make all or any of such appointments, within the time specified, the Collector shall make such appointments; and the persons so appointed shall be deemed to have been duly elected under sub-section (1).]

¹ Sub. by s. 7 of Act XVII of 1950. Section 8 of this Act reads as follows : 'Nothing in this Act shall affect the right of any Councillor or member elected to fill the seats reserved for Muslims or Muhammadans, Anglo-Indians or Indian Christians to continue as a Councillor or member of a municipality, local board or village panchayat, as the case may be, during the term of the office for which he was validly elected before the Act comes into force.'

² Sub. by the Adaptation of Laws Order, 1950.

³ Ins. by s. 7 of Act XVII of 1950.

⁴ These words "after consultation with the district local board", were deleted by Bom. XLV of 1949, s. 3.

⁵ These words were substituted for the words "district local Board" by Bom. Act LX of 1947, s. 4 (b).

⁶ Sub. by s. 3 of Act XXXI of 1950.

⁷ These words were substituted for the words and figure "in the *Official Gazette* under section 7" by Bom. II of 1945, s. 2(3), read with Bom. LX of 1947, s. 2.

7. (1) The election of ^{1*} members to a panchayat Election. shall be held on such date as the Collector may appoint in this behalf.

Bom. VI of
1923.

(2) All adult persons who ordinarily reside in the village and all adult persons who own in the village a house assessed to house tax or land assessed to cess under section 93 of the Bombay Local Boards Act, 1923, shall be entitled to vote at the election.

Such election shall be conducted in the prescribed manner. ^{2*} * *

(3) The Collector shall, after such enquiry as he considers necessary, decide in any case of dispute or doubt who is qualified to vote at such election.

8. No person may be ^{3*} a member of a panchayat Disqualifications. or continue as such who—

(a) is under 21 years of age, or

(b) does not ordinarily reside in the village, or

(c) has been sentenced by a criminal court to imprisonment or whipping for an offence ⁴[which involves moral turpitude and which is] punishable with imprisonment for a term exceeding six months, or to transportation, ^{5*} * * * such sentence ^{6*} * not having been subsequently reversed or remitted, so long as such sentence has not expired ^{7*} * unless he shall have by an order which ⁸[the ⁹[State] Government] is hereby empowered to make been relieved from the disqualification arising on account of such sentence ^{6*} * * *, or

(d) has been adjudged by a competent court to be of unsound mind, or

(e) has been adjudicated an insolvent and has not obtained his discharge, or

(f) has been removed from office under section 21 and five years have not elapsed from the date of such removal, unless he shall have, by an order which the district local board after the expiry of one year from the date of such removal is hereby empowered to make, been relieved from the disqualification arising on account of such removal from office, or

(g) holds any salaried office or place of profit in the gift or disposal of the panchayat, while holding such office or place, or

¹ The word "elected" was deleted by Bom. XVIII of 1939, s. 5 (i).

² The words "and the names of members elected shall be published by the Collector in the Official Gazette" were deleted by Bom. II of 1945, sec. 3, read with Bom. LX of 1947, s. 2.

³ The words "elected or nominated" were deleted by Bom. XVIII of 1939, s. 6 (i).

⁴ These words were inserted by, *ibid.*, XVIII, s. 6 (ii).

⁵ The words and figures "or has been ordered to furnish security for good behaviour under the Code of Criminal Procedure, 1898", were deleted, *ibid.*

⁶ The words "or order" were deleted, *ibid.*

⁷ The words "or so long as such order is in force" were deleted, *ibid.*

⁸ The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

⁹ Sub. by the Adaptation of Laws Order, 1950.

¹[(h) has directly or indirectly, by himself or his partner, any share or interest in any work done by order of the panchayat, or in any contract or employment with, or under, or by, or on behalf of the panchayat], ²[or]

(i) fails to pay any tax or fee due to the panchayat within three months from the date on or before which the amount of such tax or fee is required to be paid in the bill presented to the person under sub-section (1) of section 91, or

(j) is a servant of the ⁸[Government] or a servant of any local authority;

* * * * *

Explanation ⁴[1].—A person shall not, by reason of being a shareholder in, or a member of, any incorporated or registered company or a co-operative society registered under the ⁵Co-operative Societies Act, 1912, or the Bombay ^{II of 1912.} Co-operative Societies Act, 1925, be held to be interested in ^{Bom. VII of 1925.} any contract entered into between the company or co-operative society and the panchayat.

⁶[*Explanation* 2.—For the purposes of clause (j) of this section, an officiating revenue or ⁷[police patel or a revenue or police patel] who is an officer under the Bombay Hereditary Offices Act, shall be deemed to be a ^{Bombay III of 1874.} servant of the ⁸[Government but] an inferior village servant shall not be deemed to be a servant of the ⁸[Government].]

Determina-
tion of
validity of
elections by
collector.]

9. (1) If the Collector, after such enquiry as he considers necessary, is satisfied that any member has been elected in contravention of the provisions of section 8, or that any corrupt practice or irregularity has been committed in connection with such election, ¹⁰[or that any error has been committed by any officer charged with carrying out the rules made under clause (c) of sub-section (1) of section 108 and that such illegality, corrupt practice or irregularity or error] has materially affected the result of the election, the Collector may, ¹¹[subject to the provisions of sub-section (1A)] declare the election of such member to be invalid, and such declaration shall be final :

Provided that when the Collector is satisfied that a corrupt practice has been committed by a member, the Collector shall, whether such corrupt practice has or has not materially affected the result of the election declare the election of such member to be invalid and such declaration shall be final.

¹ Sub. by s. 2 of Act X of 1951.

² The word "or" and clauses (i) and (j) were inserted by Bom. XVIII of 1939, s. 6 (iii).

³ The proviso was deleted, *ibid.*, sec. 6 (iv).

⁴ This Explanation was numbered as Explanation 1 by Bom. II of 1945, s. 4, read with Bom. LX of 1947, s. 2.

⁵ See Central Acts.

⁶ This Explanation was inserted by Bom. II of 1945, read with Bom. LX of 1947, s. 2.

⁷ These words were substituted for the words "police patel or" by Bom. LX of 1947, s. 2(ii).

⁸ Sub. by the Adaptation of Laws Order, 1950.

⁹ Sub. by s. 4 of Act XXXI of 1950.

¹⁰ Sub. by s. 3 of Act X of 1951.

¹¹ Ins. s. 4 of Act XXXI of 1950.

¹[*Explanation.*—The expression ‘error’ in this sub-section shall include any breach of, or any omission to carry out, or any non-compliance with the provisions of the rules made under clause (c) of sub-section (1) of Section 108.]

²[(1A) If in any case to which the proviso to sub-section (1) does not apply, the validity of an election is in dispute between two or more candidates, the Collector shall, after a scrutiny and computation of the votes recorded in favour of each candidate, declare the candidate who is found to have the greatest number of valid votes in his favour, to have been duly elected:

Provided that for the purpose of such computation no vote shall be reckoned as valid if the Collector finds that any corrupt practice was committed by any person, known or unknown in giving or obtaining it:

Provided further that after such computation if an equality of votes is found to exist between any candidates and the addition of one vote will entitle any of the candidates to be declared elected, one additional vote shall be added to the total number of valid votes found to have been received in favour of such candidate or candidates, as the case may be, selected by lot drawn in the presence of the Collector in such manner as he may determine.]

(2) A person shall be deemed to have committed a corrupt practice—

(a) who, with a view to inducing any voter to give or to refrain from giving a vote in favour of any candidate, offers or gives any money or valuable consideration, or holds out any promise of individual profit, or holds out any threat of injury, to any person, or

(b) who gives, procures or abets the giving of a vote in the name of a voter who is not the person giving such vote.

Explanation 1.—A corrupt practice shall be deemed to have been committed by a candidate, if it has been committed with his knowledge and consent, or by a person who is acting under the general or special authority of such candidate with reference to the election.

Explanation 2.—“A promise of individual profit”—

(i) does not include a promise to vote for or against any particular measure which may come before a panchayat for consideration, but

(ii) subject thereto includes a promise for the benefit of the person himself or any person in whom he is interested.

¹ Ins. by s. 3 of Act X of 1951.

² Ins. by s. 4 of Act XXXI of 1950.

Declaration
if disqualifi-
cation is in-
curred.

¹[9A. If at any time the Collector after such inquiry as he considers necessary and after giving an opportunity to the member concerned to be heard is satisfied that—

(a) a member appointed under sub-section (3) of section 6 was subject to any of the disqualifications mentioned in section 8 at the time of his appointment, or

(b) any member whether elected or appointed has incurred any of the disqualifications mentioned in section 8 after his election or appointment as the case may be, the Collector shall declare the appointment of such member invalid or that such member shall not continue to be the member of the panchayat, as the case may be. Such declaration shall be final.]

Fresh elec-
tion or ap-
pointment, if
election or
appointment
is invalid.

10. If the Collector declares the election ²[or appointment of any member invalid or that any member shall not continue to be the member of a panchayat, under section 9 or 9A, as the case may be, a fresh election or appointment] for the vacancy so caused shall be held in accordance with the provisions of this Act.

Term of office
of members.

11. (1) The ^{3*} members of a panchayat shall, save as otherwise provided in this Act, hold office for a term of three years.

(2) The Collector may, by order in writing, for reasons recorded therein, extend the said term for a period not exceeding ⁴[in the aggregate five years]. Any such order shall be notified in such manner as the Collector may approve.

Commence-
ment of term
of office.

12. ⁵[(1) The term of office of the members elected at a general election or appointed under sub-section (3) of section 6 shall be deemed to commence on the date of the first meeting of the panchayat. The first meeting of the panchayat shall be held on a day fixed by the president of the district local board within four weeks from the date on which the names of elected members are published under section ⁶[6]. If the president fails to fix such date within the time so specified the Collector shall fix such date.]

(2) The term of office of the outgoing members shall be deemed to extend to and expire with the day before such meeting.

7* * * *

Resignation
of members.

13. Any ^{8*} member may resign his office by giving notice in writing to that effect to the sarpanch and such resignation shall take effect from the date of its receipt by the sarpanch.

¹ Section 9A was inserted by Bom. XVIII of 1939, sec. 7.

² These words, figures and letter were substituted for the words and figure "of any member nvalid under section 9, a fresh election", *ibid.*, sec. 8.

³ The word, "elected" was deleted, *ibid.*, sec. 9.

⁴ These words were substituted for "one year" by Bom. IV of 1949, s. 2.

⁵ Sub-section (1) was substituted for the original by Bom. XVIII of 1939, sec. 10 (1).

⁶ This figure was substituted for the figure "7" by Bom. LX of 1947, s. 5.

⁷ Sub-sections (3) and (4) were deleted by Bom. XVIII of 1939, sec. 10 (2).

⁸ The words "elected or nominated" were deleted, *ibid.* 11.

14. ¹*Every panchayat shall be presided over by a Election of sarpanch who shall be elected by the members from among sarpanch and their own number. The panchayat shall also elect one of deputy sarpanch. its members to be deputy sarpanch.

1* * * *

²[15. Save as otherwise provided in this Act, a sarpanch Term of and a deputy sarpanch shall hold office for the term of a office of panchayat.] sarpanch and deputy sarpanch.

16. After the expiry of his term of office the sarpanch Sarpanch to shall continue to carry on the current duties of his office carry on until such time as a new sarpanch shall have been elected duties until and shall have taken over charge. his suc-cessor is appointed.

17. (1) On the establishment of a panchayat for the Election of first time under this Act, or on its reconstitution or estab- sarpanch on lishment under section 102 or 103, a meeting shall be called establish-³[on the date fixed under sub-section (1) of section 12] ment of by the president of the district local board, who shall himself panchayat, etc. preside or appoint a person who is not a member of the panchayat to preside over the meeting. The president of the district local board or the person so appointed shall preside at such meeting but shall have no right to vote and the meeting shall then proceed to elect the sarpanch. In the case of an equality of votes the result of the election of the sarpanch shall be decided by lot to be drawn by the person presiding at the meeting in such manner as he may determine.

(2) On the expiry of the term of a panchayat, * * the sarpanch shall convene ⁴[on the date fixed under sub-section (1) of section 12] a meeting of the panchayat for the election of a new sarpanch. He shall preside at such meeting, but shall not vote thereat unless he is a member of the panchayat at that time. In the case of an equality of votes the result of the election shall be decided by lot to be drawn by the presiding sarpanch in such manner as he may determine:

⁵[Provided that when no meeting for the election of a sarpanch has been called by the retiring sarpanch on the date fixed under sub-section (1) of section 12 or if a meeting called by him for this purpose on the aforesaid date has not been attended by him, the president of the district local board shall proceed to convene a meetin of the panchayat in the manner described in sub-section (1) and a new sarpanch shall be elected accordingly.]

¹ The brackets and figure "(1)" and sub-section (2) were deleted, by Bom. XVIII of 1939, sec. 12.

² Section 15 was substituted for the original, *ibid.*, sec. 13.

³ These words, brackets and figures were inserted, *ibid.*, s. 14 (i).

⁴ The words and figures "or on the expiry of the period of one year for which a sarpanch ordinarily holds office as provided in section 15" were deleted, *ibid.*, s. 14 (ii) (a).

⁵ These words, brackets and figures were inserted, *ibid.*, s. 14 (ii) (b).

⁶ This proviso was substituted for the original, *ibid.*, s. 14 (iii).

If the president of the district local board fails to convene such meeting within a period of 15 days from the date fixed under sub-section (1) of section 12, the Collector himself shall convene such meeting. The president of the district local board or the Collector, as the case may be, shall nominate one of the members to preside at the meeting so convened. If the person so nominated fails to preside at the meeting the members present shall elect one of them to preside.]

¹[(3) In the event of dispute arising as to the validity of the election of a sarpanch under sub-section (1) or sub-section (2); the dispute shall be referred to the Collector for decision. The decision of the Collector shall be final and no suit or other proceeding shall lie in any court in respect of any such decision.]

Resignation by Sarpanch or deputy sarpanch. **18.** The deputy sarpanch may resign his office by giving notice in writing to the sarpanch.

The sarpanch may resign his office by giving notice in writing to the president of the district local board.

Such resignations shall take effect from the date of their acceptance.

Time and place of sitting of panchayat and procedure at meeting. **19.** The time and place of sitting and the procedure at a meeting of the panchayat shall be in accordance with bye-laws.

Executive power of Panchayat **20.** The executive power for the purpose of carrying out the provisions of this Act and the resolutions passed by a panchayat vests in the sarpanch who shall be directly responsible for the due fulfilment of the duties imposed upon the panchayat by or under this Act. In the absence of the sarpanch, the powers and duties of the sarpanch shall, save as may be otherwise prescribed by bye-laws, be exercised and performed by the deputy sarpanch.

Removal from office. **21.** The district local board may, after giving due notice to the panchayat and after such enquiry as it thinks fit, remove from office with the previous sanction of the Collector, any member, or any sarpanch or deputy sarpanch who ²[has been guilty of misconduct, or neglect of or incapacity to perform his duty] or is persistently remiss in the discharge of his duties. A sarpanch or deputy sarpanch so removed may, at the discretion of the district local board, and subject to the like sanction also be removed from the panchayat

3*	*	*	*
4*	*	*	*

¹ This sub-section was added by Bom. LX of 1947, s. 6.

² These words were substituted for the words "in its opinion is unfit to be member or sarpanch or deputy sarpanch as the case may be" by Bom. XVIII of 1939, s. 15(i).

³ The words "unless he is an *ex officio* member of the panchayat" were deleted, *ibid.*, s. 15 (ii).

⁴ The words "The panchayat may, with the previous sanction of the president of the district local board, and after due notice and inquiry remove the secretary of a panchayat from office for similar reasons" were deleted, *ibid.*, s. 15 (iii).

22. (1) Any ^{1*} member of a panchayat who, during his term of office,— Leave of absence.

(a) is absent for more than four consecutive months from the village unless leave not exceeding six months, so to absent himself, has been granted by the panchayat; or

(b) absents himself for six consecutive months from the meetings of the panchayat without the leave of the said panchayat,

shall cease to be a member and his office shall become vacant.

(2) Any dispute as to whether a vacancy has or has not occurred under this section shall be referred for decision to the Collector whose decision shall be final.

23. (1) Any vacancy of which notice shall have been given to the Collector in the prescribed manner due to the disablement, death, resignation, disqualification, absence without leave or removal of a sarpanch or a deputy sarpanch, or ²[a] member, shall be filled, by the election of a sarpanch or deputy sarpanch or ^{3*} * * * a member who shall hold office so long only as the sarpanch, deputy sarpanch or member in whose place he has been elected, ^{4*} * * * would have held office if the vacancy had not occurred : Filling up of vacancies

⁵[Provided that if no member is so elected within four weeks from the date on which notice of the vacancy is given to the Collector the standing committee of the district local board shall, within the next ⁶[eight] weeks, appoint a person who would have been qualified to be elected. If the standing committee of the district local board fails to make any such appointment within the time specified the Collector shall make such appointment and the person so appointed shall be deemed to have been duly elected under this sub-section:]

⁷[Provided further that notwithstanding anything contained in section 6, if the vacancy be of an elected member and occurs within four months preceding the date on which the term of office of the members of the panchayat expires under section 11 the vacancy shall not be filled.]

(2) The meeting for the election of a sarpanch under sub-section (1) shall be convened by the president of the district local board in the manner described in sub-section (1) of section 17.

24. During any vacancy in the panchayat the continuing members may act as if no vacancy had occurred, Vacancy not to affect proceedings of Panchayat.

¹ The words "elected or nominated" were deleted, by Bom. XVIII of 1939, s. 16.

² The letter "a" was substituted for the words "an elected or nominated", *ibid.*, s. 17(i).

³ The words "the election or nomination of" were deleted, *ibid.*, s. 17 (ii).

⁴ The words "or nominated" were deleted, *ibid.*, s. 17, (iii).

⁵ This proviso was added by Bom. LX of 1947, s. 7.

⁶ Sub. by s. 5 of Act XXXI of 1950.

This further proviso was added by Bom. IV of 1949, s. 3.

Temporary provision pending establishment of panchayats under this Act.

25. Notwithstanding anything contained in this Act the village fund shall until such date as ¹[the ²[State] Government] may notify in the ³[*Official Gazette*] be administered so far as may be under the provisions of this Act by the panchayats constituted under the Bombay Village Panchayats Act, 1920 which panchayats shall be deemed ^{1920.} to have been established under this Act.

CHAPTER III

ADMINISTRATIVE POWERS AND DUTIES

Administrative powers and duties of panchayats.

26. (1) It shall be the duty of a panchayat so far as the village funds at its disposal will allow subject to the general control of the district local board to make reasonable provision within the village in regard to the following matters namely :—

(a) the supply of water for domestic use;

(b) the cleansing of the public roads, drains, bunds, tanks and wells (other than tanks and wells used for irrigation) and other public places or works;

⁴[(ba) The removing of obstructions and projections in public streets or places and in sites not being private property, which are open to the enjoyment of the public, whether such sites are vested in the panchayat or belong to government;]

(c) the construction, maintenance and repair of public roads, drains, bunds and bridges:

Provided that, if the roads, drains, bunds, and bridges vest in any other public authority, such works shall not be undertaken without the consent of such authority;

(d) sanitation, conservancy, and the prevention and abatement of nuisances;

(e) the preservation and improvement of the public health;

(f) the maintenance and regulation of the use of public buildings, grazing lands, forest lands (including lands assigned under section 28 of the ⁵Indian Forest Act, 1927), ^{XVI of 1927.} tanks and wells (other than tanks and wells used for irrigation), vesting in or under the control of the panchayat ;

(g) the lighting of the village;

(h) control of fairs, bazars, slaughter-houses and cart-stands; and

(i) provision, ⁶[maintenance and regulation] of burning and burial grounds. 7* * * *

¹ The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

² Sub. by the Adaptation of Laws Order, 1950.

³ The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by the Adaptation of Indian Laws Order in Council.

⁴ Ins. by s. 6 of Act XXXI of 1950.

⁵ See Central Acts. •

⁶ These words were substituted for the words "and maintenance" by Bom. LX of 1947, s. 8.

⁷ Sub-section (2) was deleted. *ibid.*

¹[(2)] A panchayat may, with the previous sanction of the district local board, also make provision for carrying out outside the village any work of the nature specified in ²[sub-section (1)].

³[26A. (1) It shall be competent to a panchayat, so far as the village fund at its disposal will allow and subject to the general control of the district local board, to make reasonable provision within the village in regard to the following matters, namely :—

- (a) crop experiments;
 - (b) construction and maintenance of slaughter-houses;
 - (c) relief of the destitute and the sick;
 - (d) improvement of agriculture;
 - (e) co-operative farming;
 - (f) improvement of cattle and their breeding and the general care of the live-stock;
 - (g) establishment of granaries;
 - (h) village libraries and reading rooms;
 - (i) planting of trees along roads in market places and other public places and their maintenance and preservation;
 - (j) lay-out and maintenance of play-grounds for village children and of public gardens;
 - (k) promotion, improvement and encouragement of cottage industries;
 - (l) destruction of stray and ownerless dogs;
 - (m) construction and maintenance of dharamshalas;
 - (n) management and control of ghats which are not managed by any other authority;
 - (o) assistance to the residents when any natural calamity occurs;
 - (p) disposal of unclaimed corpses and carcasses and unclaimed cattle;
 - (q) construction and maintenance of public latrines;
 - (r) establishment and maintenance of markets;
 - (s) watch and ward of the village and the crops therein:
- Provided that the cost of watch and ward under paragraph (s) shall be levied and recovered by the panchayat from such persons in the village and in such manner as may be prescribed;
- (t) construction and maintenance of houses for the conservancy staff of the panchayat.

¹ Sub-section (3) was renumbered as sub-section (2), by Bom. LX of 1947, s. 8.

² This was substituted for "sub-sections (1) and (2)", *ibid.*

³ This section was inserted, *ibid.*, s. 9.

(2) A panchayat may also make provision for carrying out within the village any other work or measure which is likely to promote the health, safety, education, comfort, convenience or social or economic well-being of the inhabitants of the village.]

¹[(3) A panchayat may by a resolution passed at its meeting and supported by two-thirds of the whole number of its members make provision for any public reception, ceremony, entertainment or exhibition within the village :

Provided that the panchayat shall not incur expenditure exceeding Rs. 25 on any such public reception, ceremony entertainment or exhibition, except with the previous sanction of the Collector.]

Powers of district local board to transfer maintenance of institutions and execution of other works. **27.** The district local board may, at any time, with the consent of the panchayat, transfer to such panchayat the management of any institution or the execution of any work not provided for in section 26, and it shall thereupon be lawful for such panchayat to undertake the management of such institution or the execution of such work :

Provided that in every such case the funds necessary for such management or execution shall be placed at the disposal of the panchayat by the district local board.

Other duties. **28.** (i) The panchayat shall,—

2* * * * *

(ii) subject to bye-laws to be made by the district local board in this behalf—

- (a) supervise the labour employed by local boards on works within the village;
- (b) supervise repairs to dharamshalas;
- (c) manage and maintain cattle pounds;
- (d) execute such works as are entrusted to it by the district local board; and

(iii) subject to such conditions as ³[the ⁴[State] Government] may impose and with the consent of the panchayat concerned, perform such other administrative duties including the distribution of irrigation water as may be assigned to it by ³[the ⁴[State] Government] by notification in the ⁵[*Official Gazette*], after consultation with the district local board.

6* * * * *

(3) A panchayat shall not be bound ⁷* * * to perform the duties specified in clause (ii) of sub-section (1) unless sufficient funds have been placed at the disposal of the panchayat by the district local board.

¹ Ins. by s. 7 of Act XXXI of 1950.

² Clause (i) was deleted by Bom. XLV of 1949, s. 4 (v).

³ The words "the Provincial Government" were substituted for the word "Government" by Adaptation of Laws Order in Council.

⁴ Sub. by the Adaptation of Laws Order, 1950.

⁵ The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", by Adaptation of Laws Order in Council.

⁶ Sub-section (2) was deleted by Bom. XLV of 1949, s. 4 (b).

⁷ The words beginning with "to carry out" and ending with "as the case may be, or" were deleted *ibid* s. 4 (c).

¹[28A. (1) A panchayat may, from time to time, concur with any other panchayat or with any municipality, district local board or cantonment authority of committee appointed for a notified area or with more than one such panchayat, municipality, district local board, authority or committee—

Joint Com-
mittees of
two or more
local bodies.

(a) in appointing out of their respective bodies a Joint Committee for any purpose in which they are jointly interested and in appointing a chairman of such committee;

(b) in delegating to any such committee power to frame terms binding on each such body as to the construction and future maintenance of any joint work and any power which might be exercised by either or any of such bodies; and

(c) in framing and modifying rules for regulating the proceedings of any such committee and the conduct of correspondence, relating to the purpose for which the committee is appointed.

(2) A panchayat may from time to time enter, subject to the sanction of the ²[State] Government, into an agreement with any other panchayat, or with any municipality, district local board, cantonment authority or committee appointed for a notified area or with a combination of any such bodies, for the levy of octroi duty where by the octroi duties respectively leviable by the bodies so contracting may be levied together instead of separately within the limits of the area subject to the control of the said bodies.

(3) Where a panchayat has requested the concurrence of any other local authority under the provisions of subsection (1) or (2) in respect of any matter and such other local authority has refused to concur, the Commissioner may pass such orders as he may deem fit requiring the concurrence of such other local authority, not being a cantonment authority, in the matter aforesaid and such other local authority shall comply with such orders.

(4) If any difference of opinion arises between local bodies acting under this section, the decision thereupon of the ²[State] Government or of such officer as it appoints in this behalf shall be final :

Provided that, where one of the local bodies is a cantonment authority, the decision of the ²[State] Government, or of the officer, shall be subject to the concurrence of the Central Government.]

²[28B. For the purposes of this Chapter, the ²[State] Government may, subject to such conditions and restrictions as it may think fit to impose, vest in a panchayat open sites, waste, vacant or grazing lands or public roads and streets, wells, river-beds, tanks, trees or any other property in the village vesting in the ²[Government].]

may vest
certain lands
in pancha-
yat.

¹ Section 28A was inserted by Bom. IV of 1949, s. 4.

² Sub. by the Adaptation of Laws Order, 1950.

³ This section was inserted by Bom. LX of 1947, s. 10 and was renumbered as 28B by Bom. IV of 1949, s. 4.

Obstructions
and encroach-
ments upon
public streets
and open
sites.

¹[28C. (1) Whoever within the limits of the village—

(a) shall have built or set up, or shall build or set up, any wall, or any fence, rail, post, stall, verandah, platform, plinth, step or any projecting structure or thing, or other encroachment or obstruction, or

(b) shall deposit or cause to be placed or deposited any box, bale, package or merchandise, or any other thing, in any public street or place or in or over or upon any open drain, gutter, sewer or aqueduct in such street or place shall, on conviction, be punished with fine which may extend to twenty rupees and with further fine which may extend to one rupee for every day on which such projection, encroachment, obstruction or deposit continues after the date of first conviction for such offence.

(2) The panchayat shall have power to remove any such obstruction or encroachment, and shall have the like power to remove any unauthorised obstruction or encroachment of the like nature in any open site not being private property, whether such site is vested in the panchayat or not, provided that if the site be vested in Government the permission of the Collector or any officer authorised by him in this behalf shall have first been obtained, the expense of such removal shall be paid by the person who has caused the said obstruction or encroachment and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter IX.

(3) Whoever, not being duly authorised in that behalf removes earth, sand or other material from, or makes any encroachment in or upon any open site which is not private property shall, on conviction, be punished with fine which may extend to forty rupees, and, in the case of an encroachment, with further fine which may extend to two rupees for every day on which the encroachment continues after the date of first conviction.

(4) Nothing contained in this section shall prevent the panchayat from allowing any temporary occupation of or erection in any public street on occasions of festivals and ceremonies, or the piling of fuel in by-streets and sites for not more than four days, and in such manner as not to inconvenience the public or any individual.]

CHAPTER IV

INCORPORATION OF VILLAGE PANCHAYAT; ITS PROPERTY AND FUND

Incorpora-
tion of village
panchayat.

29. Every panchayat shall be a body corporate by the name of "the village panchayat of" and shall have perpetual succession and a common seal, and may sue and be sued in its corporate name, and shall be competent to acquire and hold property, both movable and immovable whether within or without the limits of the

¹ Ins by s. 8 of Act XXXI of 1950.

village over which it has authority, to lease, sell or otherwise transfer movable or immovable property which may become vested in or be acquired by it, and to contract and do all other things necessary for the purposes of this Act :

Provided that no lease or immovable property [other than property referred to in sub-section (1) of section 30] for a term exceeding ¹[three] years and no sale or other transfer of any such property shall be valid unless such lease, sale or other transfer shall have been made with the previous sanction of the Collector.

30. (1) It shall be competent to a local board from time to time to direct that any property vesting in such local board shall vest in panchayat ²[and on such direction being issued, the property shall vest in the panchayat notwithstanding anything contained in the Transfer of Property Act, 1882, or the Indian Registration Act, 1908]:

V of 1882
XVI of 1908.

³[Provided that no lease, sale or other transfer of any such immovable property by the panchayat shall be valid without the previous sanction of the Commissioner and of such local board.]

(2) Every work constructed by a panchayat out of the village fund shall vest in such panchayat.

31. (1) There shall be in each village a fund, which shall be called the village fund.

(2) The following shall form part of, or be paid into the village fund, namely :—

(a) the amount which may be allotted to the village fund by ⁴[the ⁵[State] Government] under the provisions of section 191 of the Bombay District Municipal Act, 1901:

Bom. III of 1901.

(b) the proceeds of any tax or fee imposed under section 89;

(c) all * * * sums ordered to be paid as compensation realised under sections 45 and 46;

(d) all other sums ordered by a court to be placed to the credit of the village fund;

(e) the sale proceeds, except in so far as any person entitled to the whole or a portion thereof, of all dust, dirt, dung or refuse (including the dead bodies of animals) collected by the village servants;

(f) sums contributed to the village fund by ⁴[the ⁵[State] Government] or a district local board;

(g) all sums received by way of loans from ⁴[the ⁵[State] Government] or the district local board or by way of gift;

7* * * *

¹ The word "three" was substituted for the word "seven" by Bom. XVIII of 1939, s. 18.

² This portion was inserted by Bom. LX of 1947, s. 11.

³ This proviso was substituted for the original, *ibid.*

⁴ The words "the Provincial Government" was substituted for the word "Government" by the Adaptation of Indian Laws Order, in Council.

⁵ Sub. by the Adaptation of laws Order, 1950.

⁶ The words fines and were omitted *ibid.* by the Adoption of Indian Laws Order in Council.

⁷ Clause (h) was omitted, *ibid.*

(i) the income or proceeds of any property vesting in the panchayat; and

(j) fees levied for the institution of suits and cases under section 59

Application
of village
fund

32. All property vested in the panchayat under this act, and all funds received by it in accordance with the provisions of this Act, and all sums accruing to it under the provisions of any law for the time being in force shall be applied subject to the provisions and for the purposes of this Act and all such funds and sums shall be kept in such custody as may be prescribed.

CHAPTER V

ESTABLISHMENT AND ACCOUNTS

¹[33] ²(1) Every panchayat shall appoint a Secretary who shall be a servant of the panchayat

Provided that any two or more panchayats, if the villages for which they are established are situate within a distance of three miles from each of such villages and each such panchayat has an annual income not exceeding Rs. 1,500 may appoint one and the same person as the Secretary common to each of them. Such panchayats shall pay the salary and allowances of the Secretary in such proportion as the ³[State] Government may from time to time determine.

Provided further that if there are more than one panchayat established for villages within a distance of three miles from each of such villages such panchayats not exceeding three in number may with the sanction of the State Government appoint one and the same person as the Secretary common to each of them, notwithstanding the fact that one of the said panchayats has an annual income exceeding Rs. 1,500.

(1A) The qualifications, powers, duties, remuneration and conditions of service (including disciplinary matters) of such Secretary shall be such as may be prescribed.

(2) The ²[State] Government shall pay three-fourth of the salary and allowances of such Secretary.

(3) Every Secretary of a panchayat in office on the date of the coming into operation of the Bombay Village Panchayats (Amendment) Act, 1947, shall be deemed to have been appointed under sub-section (1).]

¹ Section 33 was adopted for the original by Bom. LX of 1947, s. 12.

² Sub. by s. 4 of Act X of 1951.

³ Sub. by the Adaptation of Laws Order, 1950.

34. Subject to the provisions of section 98, a panchayat shall determine and submit for information to the district local board a schedule of the number and salaries of its servants required for carrying out the duties imposed upon the panchayat by or under this Act. Schedule of servants.

35. (1) The sarpanch shall appoint the servants of the panchayat and pay their salaries from the village fund at his disposal. He may also, in cases of emergency, engage such temporary servants as he may deem necessary. The sarpanch may, from time to time, by a written order, fine, suspend or dismiss any servant appointed by him. Appointment of servants.

(2) An appeal shall lie against an order passed under sub-section (1) to the panchayat.

36. (1) A panchayat shall determine annually and shall submit to the district local board, on or before such date and in such form as may be prescribed by ¹[the ²[State] Government], a statement of— Budget and accounts. Panchayat to convene a meeting of residents of village.

(a) the opening balance and estimated income of the panchayat for the following year;

(b) the expenditure proposed on establishment and the discharge of the duties specified in sub-section (1) of section 26;

(c) the expenditure proposed under ³[section 26A] and sub-section (1) of section 28.

(2) The district local board shall, within three months from the date of the receipt of such statement, either approve the same or direct that the proposed expenditure on any of the duties specified in sections 26 and 28 shall be increased or decreased :

Provided that the district local board shall not have power to direct that the total proposed expenditure shall exceed the estimated income of the village fund for the following year and the opening balance.

⁴[(3) The Secretary appointed under section 33 shall keep the accounts of the panchayat in such form as may be prescribed. He shall prepare the annual report of the administration of the panchayat and shall place the accounts and the report for approval before the panchayat. The annual statements of such accounts together with the annual report as approved shall be sent to the district local board on or before such date and in such form as may be prescribed.]

⁴[(4) A panchayat shall convene in a manner and at a time prescribed a meeting of all adult residents of the village and the statements of the accounts together with a report on the administration for the preceding year and the programme of the work proposed for the year following shall be read out and explained at such meeting.]

¹ The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

² Sub. by the Adaptation of Laws Order, 1950.

³ This was substituted for "sub-section (2) of section 26" by Bom. LX of 1947, s. 13.

Sub-sections (3) and (4) were substituted for the original by Bom. XVIII of 1939, s. 20.

CHAPTER VI

CONSTITUTION AND POWERS OF ¹[*Nyaya Panchayats*]

Election of ¹[*nyaya Panchayats*.] ²[37. (1) Every panchayat shall at its first meeting elect out of its members in the manner prescribed five persons for the purpose of constituting a ¹[*nyaya panchayat*].

³[(1A) If any question, doubt or dispute arises as to the validity of the election of a member of a *nyaya panchayat* under sub-section (1), it shall be referred to the Collector for decision. The decision of the Collector shall be final and no suit or other proceeding shall lie in any Court in respect of such question, doubt or dispute.]

(2) The five persons so elected shall constitute a ¹[*nyaya panchayat*] and the ⁴[State] Government shall direct that such ¹[*nyaya panchayat*] may exercise all or any of the judicial powers which may be conferred on the ¹[*nyaya panchayat*] under this Act : Provided that the ¹[State] Government may at any time by notification in the *Official Gazette*, withdraw all or any of the judicial powers conferred on a ¹[*nyaya panchayat*] if in the opinion of the ⁴[State] Government, such ¹[*nyaya panchayat*] has been incompetent in the exercise of or has been guilty of the abuse of the said powers.

(3) Save as herein provided the term of office of the members of such ¹[*nyaya panchayat*] shall be co-extensive with the term of their office as the members of the panchayat.

(4) If any vacancy arises in the office of any of the members of such ¹[*nyaya panchayat*], it shall be filled by election in the manner prescribed. The member so elected shall hold office so long only as the member in whose place he has been elected would have held office if the vacancy had not occurred.

(5) Out of the members so elected three members shall form a quorum.

(6) Save as provided in this Act, the ⁴[State] Government may make rules to regulate—

(a) the conduct and distribution of business and practice before a ¹[*nyaya panchayat*].

(b) the times and places at which the ¹[*nyaya panchayat*] shall sit.

(c) any other matter which in the opinion of the ⁴[State] Government may be necessary for the conduct of proceedings before a ¹[*nyaya panchayat*].

¹ These words were substituted for the words "village bench" or "bench" by Bom. LX of 1947 s. 25.

² Sections 37, 37A, 37B, and 37C were substituted for section 37 by Bom. XVIII of 1939, s. 21.

³ This sub-section was inserted by Bom. LX of 1947, s. 14.

⁴ Sub. by the Adaptation of Laws Order, 1950.

¹[37A. Every ²[nyaya panchayat] shall have a Chairman. ^{Chairman of}
The Chairman shall be elected by the ²[nyaya panchayat], ²[nyaya panchayat].
from amongst the members of the ²[nyaya panchayat] and
the term of office of the Chairman of such ²[nyaya panchayat] shall be co-extensive with the term of the ²[nyaya panchayat].]

¹[37B. The Secretary of a panchayat shall act as the ^{Judicial}
judicial clerk of the ²[nyaya panchayat] for the purpose of record- ^{Clerk of}
ing its proceedings and decisions and doing such other ^{Panchayat.}
duties as may be prescribed.]

¹[37C. (1) The ³[State] Government, if it thinks fit ^{Removal of}
may remove any member elected on the ²[nyaya panchayat] a ^{member}
after giving him an opportunity of being heard and after ^{from the}
such inquiry as the ³[State] Government deems necessary, ²[nyaya panchayat].
if in the opinion of the ³[State] Government such member
has been guilty of misconduct in the discharge of his duties
or of any disgraceful conduct or neglects or refuses to per-
form or has been incapable of performing any of the duties
as a member of the ²[nyaya panchayat].

(2) If any inquiry is held under sub-section (1) the
³[State] Government may suspend such member from being
on the ²[nyaya panchayat] for such period as it thinks fit.

(3) The removal or suspension of such member under
sub-section (1) or (2) shall not by reason of that fact alone
disqualify him from being a member of a panchayat.

(4) A person removed from a ²[nyaya panchayat]
under sub-section (1) shall not be eligible for re-election on
such ²[nyaya panchayat].]

38. Every suit or case of the nature specified in section ^{Saving of}
39 or 41, pending in any court and cognizable by a ²[nyaya pending
<sup>panchayat] empowered under section 37 and all proceedings ^{proceedings.}
arising from and incidental to any such suit or case shall
be tried, heard and determined by such court or any other
court having jurisdiction to try, hear and determine the
same, as if this Act had not been passed.</sup>

39. (1) Save as otherwise provided in section 40, ^{Suits triable}
⁴[power to try all or any of the following suits may be by ²[nyaya
conferred on a ²[nyaya panchayat] under section 37], namely :— ^{panchayat].}

(a) suits for money due on contracts, not affecting any
interest in immovable property;

(b) suits for the recovery of movable property or for
the value of such property;

(c) suits for compensation for wrongfully taking and
injuring movable property;

where the amount or value of the claim does not exceed
twenty-five rupees.

¹ These sections were substituted for section 37 by Bom. XVIII of 1949, s. 21.

² These words were substituted for the words "village bench" or "bench" by Bom. LX of 1947,

s. 25.

³ Sub. by the Adaptation of Laws Order, 1950.

⁴ These words and figures were substituted for the words "the village bench shall have power to try the following suits," by Bom. XVIII of 1939, s. 22.

(2) With the written consent of both the parties, recorded in the presence of the ¹[nyaya panchayat], suits of the nature described in sub-section (1) but the value of which does not exceed one hundred rupees, shall be triable by such ¹[nyaya panchayat].

(3) ²[The ³[State] Government] may, by notification in the ⁴[Official Gazette], direct that any ¹[nyaya panchayat] may try any suit of the nature described in sub-section (1), up to such value as may be specified in the notification not exceeding one hundred rupees.

Suits not
triable by
¹[nyaya
Panchayat].

40. No suit shall be brought before any ¹[nyaya panchayat]—

- (i) on a balance of partnership account;
- (ii) for a share or part of a share under any intestacy, or for a legacy or part of a legacy under a will;
- (iii) by or against ³[Government] or any local authority or an officer or servant of ³[Government] or a member, officer or servant of a local authority in his official capacity;
- (iv) by or against a minor or a person of unsound mind; and
- (v) on account of any dispute or matter in respect of which any suit or application would be cognizable by a revenue court.

Offences
cognizable
by ¹[nyaya
panchayat].

⁵[41.] Power to take cognizance of and try all or any ^{XLV} of the following offences may be conferred on ¹[nyaya 186a. panchayat] under section 37, namely :—

(a) Under the Indian Penal Code—

	Section
Negligently doing any act known to be likely to spread the infection of any disease dangerous to life ..	269
Fouling the water of a public spring or reservoir	277
Causing danger, obstruction or injury to any public way	283
Voluntarily causing hurt	323
Assault or use of criminal force otherwise than on grave and sudden provocation	352
Assault or use of criminal force on grave and sudden provocation	358

¹ These words were substituted for "village bench" or "bench" by Bom. LX of 1947, s. 25.

² The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

³ Sub. by the Adaptation of Laws Order, 1950.

⁴ The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by the Adaptation of Indian Laws Order in Council.

⁵ Section 41 was substituted for the original by Bom. XVIII of 1939, s. 23.

		Section
	Theft, where the value of the property stolen does not exceed Rs. 20 ..	379
	Mischief when the loss or damage caused does not exceed Rs. 20 in value ..	426
	Criminal trespass	447
	House trespass	448
	Dishonestly breaking open or unfastening any closed receptacle containing or supposed to contain property ..	461
	Intentional insult, with intent to provoke a breach of the peace	504
I of 1871.	(b) Under the Cattle-trespass Act, 1871— Forcibly opposing the seizure of cattle or rescuing the same ..	24
XI of 1890.	¹ [(c) Under the Prevention of Cruelty to Animals Act, 1890— Practising phooka	4
	Killing animals with unnecessary cruelty	5
	Being in possession of the skin of a goat killed with unnecessary cruelty	5A
	Employing animals unfit for labour ..	6
	Baiting or inciting animals to fight ..	6C
	Permitting diseased animals to go at large or to die in public places..	7
Bom. IV of 1890.	(d) Under the Bombay District Police Act, 1890— Being drunk and incapable of taking care of himself in a street or public place or place or public resort	61 (1) (p)
Bom. I of 1892.	(e) Under the Bombay District Vaccination Act, 1892— Inoculating, entering a vaccination area after inoculation, and bringing person inoculated into area ..	22
	Disobedience of order of the Magistrate for the vaccination of any unprotected child under 14 years ..	23
	Not producing child	24
	Neglecting to take child to be vaccinated	25
Bom. LXI of 1947.	(f) Under the Bombay Primary Education Act, ² [1947]— 3* * * * *	
	Employing child liable for compulsory education	² [36]

¹ Clauses (c) to (h) were substituted for clause (c) by Bom. LX of 1947, s. 15.

² The figures "1947" and "36" were substituted for the figures "1923", "21" and "22" respectively by Bom. XLV of 1949, s. 5.

³ Deleted by s. 9 of Act XXXI of 1950.

Section

(g) Under the Bombay Prevention of Adulteration Act, 1925—

Bom. V of 1925.

Sale or manufacture of food not of the proper nature, substance or quality

4

¹[(h) Under this Act :—

(i) Obstructions and encroachments upon public streets and open sites 28C (1) and (3)

(ii) Contravention of a bye-law .. 109

Provided that no offence of theft shall be cognizable by any ²[nyaya panchayat], unless an accused person has been either apprehended or recognised and named.]

Certain persons accused of theft not to be tried by ²[nyaya panchayat].

42. No ²[nyaya panchayat], shall take cognizance of any offence of theft punishable under section 379 of the Indian Penal Code in which the accused— XLV of 1860.

(a) has been previously convicted of an offence punishable under Chapter XII or Chapter XVII of the Indian Penal Code, with imprisonment of either description for a term of three years or upwards ; XLV of 1860.

(b) has been previously fined for theft by any ³[nyaya panchayat];

(c) is a registered member of a criminal tribe under section 4 of the ⁴Criminal Tribes Act, 1924; VI of 1924 or

(d) has been bound over to be of good behaviour in proceedings instituted under section 109 or, section 110 of the Code of Criminal Procedure, 1898. V of 1898.

Offences by or against public servant not cognizable by ²[nyaya panchayat]. 43. No ²[nyaya panchayat] shall take cognizance of any offence specified in section 41 in which either the complainant or the accused is a public servant serving in the district in which the village for which the panchayat is established is situated :

Provided, however, that a ²[nyaya panchayat] shall not be debarred from taking cognizance of an offence ¹[punishable under sub-section 1 or 3 of section 28 (c) or of contravention of a bye-law under sub-section 2 of section 109], notwithstanding that the complainant in the case is a public servant.

Conviction by a ²[nyaya panchayat], not a previous conviction. 44. A conviction by a ²[nyaya panchayat] under this Act shall not be deemed to be a previous conviction for the purposes of section 75 of the Indian Penal Code. XLV of 1860.

¹ Sub. by S. 9 of Act XXXI of 1950.

² These words were substituted for the words "village bench" or "bench" by Bom. LX of 1947, s. 25.

³ These words were substituted for the word "panchayat", *ibid.*, s. 16.

⁴ The Criminal Tribes Act, 1924 ceased to extend to the Province of Bombay with effect from the 13th August 1949. (*Vide* G. N., H. D., No. 9642/5, dated the 5th August 1949.) See therefore the Bombay Habitual Offenders Restriction Act, 1947 (Bom. LI of 1947).

⁵ Sub. by s. 10 of Act XXXI of 1950.

45. (1) The following are the maximum penalties which may be inflicted by a ¹[nyaya panchayat] for the offences mentioned in section 41:—

(a) Under the Indian Penal Code—

Fine not exceeding Rs. ²[20] or double the amount of the loss or damage caused up to a limit of Rs. ³[40].

(b) Under section 24 of the Cattle trespass Act, 1871—

Fine not exceeding Rs. ²[10]. ^{3*}

1* * * *

Bom. LXI of 1947. ⁵[(bb)] Under section ⁶[36] of the Bombay Primary Education Act, ⁶[1947] or under the provisions of any other Act mentioned in section 41—

Fine not exceeding Rs. 20; ^{7*}

⁸[(c) Under sub-section (1) of section 28C of this Act—

Fine not exceeding Rs. 20 or Re. 1 per day for a continuing contravention as provided in that sub-section.

(d) Under sub-section (3) of section 28C of this Act—

Fine not exceeding Rs. 40 or Rs. 2 per day for a continuing contravention as provided in that sub-section.

(e) Under sub-section (3) of section 109 of this Act—

Fine not exceeding Rs. 20 or Re. 1 per day for a continuing contravention as provided in that sub-section.]

(2) No sentence of imprisonment, whether substantive or in default of fine or of whipping, shall be inflicted by a ¹[nyaya panchayat].

46. ⁹[The ¹⁰[State] Government] may empower, by a notification in the ¹¹[Official Gazette] a ¹[nyaya panchayat] to inflict the following maximum penalties:—

(a) Under the sections of the Indian Penal Code mentioned in section 41—

Fine not exceeding Rs. ¹²[40] or double the amount of the damage or loss caused, whichever is greater.

¹ These words were substituted for the words "village bench" or "bench" by Bom. LX of 1947, s. 25.

² These figures were substituted for the original, *ibid.*, s. 17.

³ The word "and" was deleted, *ibid.*

⁴ Deleted by s. 11 of Act XXXI of 1950.

⁵ Relettered by s. 11, *ibid.*

⁶ The figures "36" and "1947" were substituted for the figures "22" and "1923" respectively by Bom. XLV of 1949, s. 6.

⁷ The word "and" was deleted by s. 11 of Act XXXI of 1950.

⁸ Sub. by s. 11, *ibid.*

⁹ The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

¹⁰ Sub. by the Adaptation of Laws Order, 1950.

¹¹ The words "Official Gazette" were substituted for the words "Bombay Government Gazette", *ibid.*

¹² These figures were substituted for the original by Bom. LX of 1947, s. 18.

- (b) Under section 24 of the ¹Cattle-trespass Act, 1871—

I of 1871.

Fine not exceeding Rs. ²[20].

- ³[(c) Under the provisions of any other Act mentioned in section 41 except the Bombay Primary Education Act, ⁴[1947]—

Bom. LXI of 1947.

Fine not exceeding Rs. ²[50].]

Compensation to complainants.

- 47.** In inflicting any fine under section 45 or section 46 the ⁵[nyaya panchayat] may direct that the whole or any portion of the fine recovered shall be applied—

- (a) towards defraying the expenses properly incurred in the case by the complainant, or
- (b) in giving compensation to a person for any material loss or damage caused to him by reason of the commission of the offence.

Compensation to accused for false or frivolous case.

- 48.** If a ⁵[nyaya panchayat] is satisfied, after enquiry, that a case brought before it is false, frivolous or vexatious such ⁵[nyaya panchayat] may order the complainant to pay the accused such compensation, not exceeding Rs. 5 as it thinks fit.

Youthful offenders.

- 49.** Instead of passing any sentence, a ⁵[nyaya panchayat] may discharge, after due admonition, a youthful offender who, in the opinion of such ⁵[nyaya panchayat] is, at the time of conviction of the offence, under the age of sixteen years.

Members interested not to sit on ⁵[nyaya panchayat].

- 50.** No member of a ⁵[nyaya panchayat] who is a party to, or has any interest in, any suit or case shall sit on the ⁵[nyaya panchayat] while it is trying such suit or case.

Any dispute as to whether a member of a ⁵[nyaya panchayat] is a party to or interested in a suit or case shall, on a written application of a party to such suit or case, be referred to the Collector or such officer as he may authorise in this behalf for decision. The decision of the Collector or such officer shall be final.

Res judicata and pending suits and cases.

- 51.** (1) No ⁵[nyaya panchayat] shall try any suit or issue in respect of any matter which is pending for decision in, or has been heard and decided by, a court of competent jurisdiction in a previously instituted suit between the same parties or those under whom they claim.

¹ See Central Acts.

² These figures were substituted for the original by Bom. LX of 1947, s. 18.

³ This clause was inserted, *ibid.*, s. 18.

⁴ These figures were substituted for the figures "1947" by Bom. XLV of 1949, s. 7.

⁵ These words were substituted for the words "village bench" or "bench" by Bom. LX of 1947, s. 25.

(2) Where an accused person has been tried for any offence, no ¹[*nyaya panchayat*] shall take cognizance of such offence or, on the same facts, of any other offence of which the accused might have been charged or convicted.

52. Every suit instituted before a ¹[*nyaya panchayat*] shall include the whole of the claim which the plaintiff is entitled to make in respect of the matter in dispute but he may relinquish any portion of his claim in order to bring the suit within the jurisdiction of the ¹[*nyaya panchayat*]. Suits to include whole claim.

If a plaintiff ²[intentionally omits to sue in respect of or] relinquishes any portion of his claim, he shall not afterwards sue in respect of the portion so omitted or relinquished.

53. (1) No suit shall be entertained by a ¹[*nyaya panchayat*] after the expiration of one year from the time when the right to sue first accrued. Limitation for suits and cases.

(2) No case shall be cognizable by a ¹[*nyaya panchayat*] after the expiration of one month from the date on which the offence was committed.

54. Every suit under this Act shall be instituted before the ¹[*nyaya panchayat*] of the village in which the defendant or each of the defendants, where there are more than one, resides at the time of the institution of the suit, irrespective of the place where the cause of action arose. ¹[*Nyaya panchayat*] before which suits to be instituted.

55. Every case under this Act shall be instituted before the ¹[*nyaya panchayat*] of the village in which the offence was committed. ¹[*Nyaya panchayat*] before which cases to be instituted.

56. Any magistrate upon receiving a complaint of facts constituting an offence cognizable by a ¹[*nyaya panchayat*] shall, unless reason to the contrary be shown to the satisfaction of the magistrate, return the complaint for presentation to the ¹[*nyaya panchayat*] having jurisdiction to try the same. Return of complaints.

57. Notwithstanding anything contained in any law for the time being in force, no court, subject to the provisions of section 56, shall entertain any suit specified in section 39 or take cognizance of any offence specified in section 41, unless and until ³[the District Court or the District Magistrate, as the case may be], has passed an order in writing under section 77 or 87. Bar of jurisdiction of courts in suits and cases.

¹ These words were substituted for the words "village bench" or "bench" by Bom. LX of 1947, s. 25.

² These words were substituted for the words "omits to sue in respect, of or intentionally" by Bom. XVIII of 1939, s. 24.

³ These words were substituted for the words "the District Judge or the Collector", *ibid*, s. 25.

Bom. Act VIII of 1867, sections 14, 15 and 16 not to apply to village which has ⁴[*nyaya panchayat*].
58 Notwithstanding any thing contained in the Bombay Village Police Act, 1867, the provisions of sections 14, ¹[15] and 16 of the said Act shall not apply to any village in which a ⁴[*nyaya panchayat*] shall have been constituted under ²** section 37.
 Bom. Act VIII of 1867.

Pending cases before ⁴[*nyaya panchayat*] when term of office has expired.
³[**58A.** A ⁴[*nyaya panchayat*] newly constituted on the expiry of the term of office of the members of another ⁴[*nyaya panchayat*] or a ⁴[*nyaya panchayat*] newly constituted on the dissolution of another ⁴[*nyaya panchayat*] under section 106, shall hear and dispose of all suits, cases and proceedings pending before the latter at the date of the expiry of such term or at the date of such dissolution:

Provided that the hearing of such suits, cases and proceedings shall commence anew before the ⁴[*nyaya panchayat*] newly constituted, as if such suits, cases and proceedings were instituted before it.]

CHAPTER VII

PROCEDURE OF PANCHAYATS IN SUITS AND CASES

Suits and cases; how instituted.

59. Any person who wishes to institute a suit or case under this Act before a ⁴[*nyaya panchayat*] shall make an application orally or in writing to the Chairman or during his absence from the village to such other member of the ⁴[*nyaya panchayat*] as the Chairman may appoint in this behalf and shall at the same time pay the prescribed fees.

Substance of application to be recorded.

60. The substance of the application shall be recorded without delay in the prescribed register and the signature or thumb-impression of the applicant shall be taken on the register and the register shall be signed by the Chairman or in his absence, by any member authorised under section 59.

Plaintiff or complainant to attend next sitting of ⁴[*nyaya panchayat*].

61. Every suit or case instituted in accordance with the provisions of section 59 shall be brought before the ⁴[*nyaya panchayat*] at its next sitting and the plaintiff or complainant, as the case may be, shall, at the time of making the application, be informed of the time and place fixed for such sitting and directed to attend at that time and place.

Summons to be issued to defendant or accused.

62. The ⁴[*nyaya panchayat*] after hearing the application, shall cause a written summons in the prescribed form to be served on the defendant or accused, as the case may be, requiring him to attend and produce his evidence at such time and place as may be stated in the summons and shall, at the same time, direct the plaintiff or complainant to attend and produce his evidence at such time and place :

¹ The figures and word "15 and 16" were inserted, *ibid.*, s. 26(a).

² The words, figure and brackets "sub-section (1) of" were deleted, *ibid.*, s. 26 (b).

³ Section 58A was inserted, by Bom. XVIII of 1939, s. 27.

⁴ These words were substituted for the words "village bench" or "bench" by Bom. LX of 1947, s. 25.

Provided that the ¹[*nyaya panchayat*] may for reasons to be recorded, after hearing the application and examining the plaintiff or complaint, refuse to issue a summons and dismiss the suit or complaint.

63. Such summons shall ordinarily be caused to be served by the patel or village headman. Where there are two patels in a village, one of whom is a revenue patel and the other a police patel, the summons shall ordinarily be served by the revenue patel if it relates to a suit and by police patel if it relates to a case :

Summons
by whom
served.

Provided, however, that a ¹[*nyaya panchayat*] may cause the summons to be served through any other person.

64. The summons shall be in duplicate, signed by the presiding member of the ¹[*nyaya panchayat*] and shall, as far as possible, be served personally on the defendant or accused, as the case may be, whose signature or thumb-impression shall be taken in token of service. If the defendant or accused cannot be found and the ¹[*nyaya panchayat*] is satisfied that he is evading service or if he refuses to take the summons, the ¹[*nyaya panchayat*] may order service to be made on an adult male member of his family residing with him, or by affixing a copy thereof upon some conspicuous part of the house in which he ordinarily resides.

Mode of
service of
summons.

65. If a defendant or accused is, at the time of the issue of the summons, outside the village of the panchayat, the summons may be forwarded by the ¹[*nyaya panchayat*] to the Collector or to any officer not below the rank of a mamlatdar, who may be authorised by the Collector in this behalf, and the Collector or such officer shall cause the summons be served as if it were summons from his own court.

Mode of ser-
vice outside
village.

66. (1) Women who, according to the customs and manners of the country, ought not to be compelled to appear in public, shall be exempt from personal appearance before a ¹[*nyaya panchayat*] in any suit.

Exemption of
certain per-
sons from ap-
pearance in
suits.

V of 1908.

(2) Persons exempted from personal appearance in any court under section 133 of the Code of Civil Procedure, 1908, shall also be exempt from personal appearance before a ¹[*nyaya panchayat*] in any suit.

67. (1) A ¹[*nyaya panchayat*] may, if it considers the evidence of, or the production of a document by, any person necessary in a suit or case, issue a summons to such person to compel him to attend or to produce or cause the production of such document, and such person shall be bound to comply with the directions contained in the summons. Such summons shall be in the form and served in the manner as hereinbefore provided.

Issue of sum-
mons to wit-
nesses.

(2) A ¹[*nyaya panchayat*] may refuse to summon a witness enforce a summons already issued against a witness where, in its opinion, the attendance of the witness cannot be procured without an amount of delay, expense or inconvenience which in the circumstances, would be unreasonable.

¹ These words were substituted for the words "village bench" or "bench" by Bom. LX of 1947, s. 25.

(3) No ¹[nyaya panchayat] shall enforce the attendance of any person living outside the village to give evidence, or to produce a document, unless such sum of money is deposited with the ¹[nyaya panchayat] as appears to the ¹[nyaya panchayat] to be sufficient to defray his reasonable expenses and if in the opinion of the Collector or officer empowered under section 65, as the case may be, the attendance of any such person is not necessary for the proper adjudication of the suit or case, such Collector or officer shall return the summons to the ¹[nyaya panchayat] with his endorsement accordingly.

(4) No ¹[nyaya panchayat] shall compel any person to give evidence or to disclose any communication which such person cannot be permitted to give or compelled to disclose under the provisions of the ²Indian Evidence Act, 1872, or under any I of 1872- other law for the time being in force.

Pleaders, etc., 68. No pleader, vakil, or mukhtyar, and no advocate excluded from appearance. or attorney of a High Court, shall be permitted to appear on behalf of any party to any suit or case before a ¹[nyaya panchayat] ³* * * :

Provided that any party to any such suit or case may be permitted, on reasonable cause being shown to the satisfaction of the ¹[nyaya panchayat] ⁴* * * to employ any relation, servant, dependant, or friend who is not and who has not previously been a pleader, vakil, or mukhtyar or an advocate or attorney of a High Court, to appear either conjointly with or in lieu of such party.

When a relation, servant, dependant, or friend appears in lieu of a party, he shall be furnished by such party with written authority defining the extent to which he is empowered to act.

Decision of 69. (1) It shall be the duty of a ¹[nyaya panchayat] suit or case to ascertain the facts of a suit or case before it after holding on facts as- an inquiry in accordance with the provisions of this Act and the rules. certain.

(2) Nothing in any enactment relating to evidence or procedure shall in any way affect the powers of a ¹[nyaya panchayat] to hold such inquiry.

(3) After holding such inquiry, a ¹[nyaya panchayat] may pass such decree or order, with or without prescribed fees subject to the provisions of this Act, as may in its opinion seem just and equitable. ⁵[Such decree or order shall state the finding and a brief statement of the reasons thereof.]

Decision of 70. The decision of the ¹[nyaya panchayat] shall be in the ¹[nyaya panchayat] accordance with the opinion of the members of the ¹[nyaya panchayat] who are present at the sitting or of the majority of such members. If the members are equally divided, the person presiding shall have a second or casting vote.

¹ These words were substituted for the words "village bench" or "bench" by Bom. LX of 1947, s. 25-

² See Central Acts.

³ The words and figures "or in any inquiry under section 87" were omitted by Bom. XVIII of 1939, sec. 28.

⁴ The words "or the District Judge or Collector" were omitted, *ibid.*, s. 28.

⁵ These words were inserted, *ibid.*, sec. 29.

71. The ¹[nyaya panchayat] may, from time to time, adjourn the hearing of any suit or case : Adjournment.

Provided that such adjournment is, in its opinion, unavoidable or necessary to a just and equitable decision of the suit or case.

72. (1) If the plaintiff or complainant fails to appear, after having been informed of the time and place fixed for the hearing, the ¹[nyaya panchayat] may hear and decide the suit or case in his absence. Disposal of suits and cases in absence of party concerned.

(2) The ¹[nyaya panchayat] may hear and decide a suit or case in the absence of the defendant or the accused, if a summons has been served upon him in the manner hereinbefore prescribed, or if he has been informed of the time and place fixed for hearing :

Provided that no sentence shall be passed by a ¹[nyaya panchayat] on any accused, unless he has appeared, either in person or by a representative, before the ¹[nyaya panchayat] and the substance of his statement has been recorded in the prescribed register.

(3) If after the service of summons upon him, an accused fails to appear, either in person or by a representative, the ¹[nyaya panchayat] may apply to the District Magistrate or to any officer not below the rank of a second class magistrate authorised by the District Magistrate in this behalf, and such District Magistrate or officer shall compel the accused to appear in person or by his representative before the ¹[nyaya panchayat] as if he were a court trying the case.

(4) Where an accused person has, under sub-section (3), been compelled to appear before the ¹[nyaya panchayat], the ¹[nyaya panchayat] shall forthwith take his statement, and thereafter his attendance at the hearing of the case shall not be compulsory.

73. (1) Where it is proved to its satisfaction that a suit has been adjusted wholly or in part by oath or by any lawful agreement, compromise or satisfaction, the ¹[nyaya panchayat] shall order such agreement, compromise or satisfaction to be recorded and shall pass a decree in accordance therewith so far as it relates to the suit. Compromise of suits and compounding of cases.

(2) A ¹[nyaya panchayat] may permit any case to be compounded:

Provided that when a ¹[nyaya panchayat] does not pass a decree in accordance with the agreement, compromise or satisfaction under sub-section (1) or does not permit a case to be compounded under sub-section (2), it shall record its reasons in writing.]

74. When any party to a suit dies before a decree has been passed, the suit shall abate, but a fresh suit may be brought on the same cause of action and the period during Death of parties.

¹ These words were substituted for the words "village bench" or "bench" by Bom. LX of 1947, s. 25.

² Section 73 was substituted for the original by Bom. XVIII of 1939, s. 30.

which the suit was pending shall be excluded in computing the period of limitation prescribed under section 53 for the fresh suit.

¹[*Nyaya panchayat*] **75.** (1) Except as provided in sub-section (2), a ¹[*nyaya panchayat*] shall not have power to cancel, revise or alter any decree or order passed by it.

(2) On application made within one month from the date of the decree or order of a ¹[*nyaya panchayat*], the ¹[*nyaya panchayat*] may for reasons to be recorded in writing, restore any suit which has been dismissed for default or in which an *ex parte* decree has been passed against the defendant.

Interest and instalments. **76.** In suits for money, a ¹[*nyaya panchayat*] may, in its discretion, direct payment of interest on the sum decreed, at a rate not exceeding six per cent. *per annum*, from the decree until the date of payment and of any fees which may be prescribed.

When a ¹[*nyaya panchayat*] decrees the payment of a sum of money in a suit it may direct that it be paid by instalments without interest, or with interest not exceeding the above rate.

Reference by ¹[*nyaya panchayat*] **77.** (1) When any ¹[*nyaya panchayat*] is of opinion that any suit or case before it is of such a nature, or of such intricacy or importance that it ought to be tried by a court ²[or that the accused in a case ought to receive a punishment different in kind from, or more severe than that which such ¹[*nyaya panchayat*] is empowered to inflict] it shall stay proceedings and refer the suit to ³[the District Court] or the case to ⁴[the District Magistrate] for ⁵* orders.

(2) If ⁶[the District Court or District Magistrate, as the case may be], is of the opinion that the suit or case is of such nature, intricacy or importance that it ought not to be tried by the ¹[*nyaya panchayat*] ²[or that the accused in a case ought to receive a punishment different in kind from, or more severe than that which such ¹[*nyaya panchayat*] is empowered to inflict] ⁷[such court or Magistrate] shall pass orders directing the plaintiff or complainant to the civil or criminal court, as the case may be, competent to take cognizance of such suit or case.

(3) If ⁶[the District Court or District Magistrate, as the case may be], is of opinion that the suit or case is not of such nature, intricacy or importance that it ought to be tried by a Court, ²[or that the accused in a case ought, not to receive a punishment different in kind from, or more

¹ These words were substituted for the words "village bench" or "bench" by Bom. LX of 1947, s. 25.

² These words were inserted, *ibid.*, s. 19.

³ These words were substituted for the words "the District Judge or any officer not below the rank of Subordinate Judge who may be authorised by the District Judge in that behalf" by Bom. XVIII of 1939, s. 31 (1) (a).

⁴ These words were substituted for the words "the Collector or any officer below the rank of Mamlatdar who may be authorised by the Collector in this behalf", *ibid.*, s. 31 (1) (b).

⁵ The word "his" was deleted, *ibid.*, s. 31 (1) (c).

⁶ These words were substituted for the original, *ibid.*, s. 31 (2).

⁷ These words were substituted for the word "he", *ibid.*, s. 31 (2).

severe than, that which such ¹[*nyaya panchayat*] is empowered to inflict] ²[such Court or Magistrate] shall return the suit or case to the ¹[*nyaya panchayat*], which made the reference for disposal.

³[78. (1) An appeal shall lie to the District Court Appeal against a decree passed by a ¹[*nyaya panchayat*] in any suit and to the District Magistrate against an order in any case.

(2) The period for filing such appeals shall be thirty days from the date of the decree or order, as the case may be.]

⁴[79. Every order passed under section 77, 78, 87 Finality of or 87A by a District Court or by a District Magistrate shall decrees and be final and shall not be subject to any appeal, revision or orders review.]

CHAPTER VIII

EXECUTION

80. If on the application of a decree-holder or judgment debtor, the ¹[*nyaya panchayat*], after enquiry, finds or adjustment that the decree has been satisfied or adjusted, wholly or in part, the ¹[*nyaya panchayat*] shall record the fact in the prescribed register. Satisfaction of decree to be recorded.

81. (1) If, after a period of one month from the date of a decree, the decree remains unsatisfied or unadjusted, in whole or in part, the decree-holder may, within one year of the date of the decree, apply to the ¹[*nyaya panchayat*] for execution. Execution through Collector.

(2) On such application for execution, the ¹[*nyaya panchayat*] shall certify to the Collector that the decree remains unsatisfied or unadjusted, in whole or in part and on receipt of such certification the Collector shall, provided that the ¹[*nyaya panchayat*] shall have certified to the Collector within one year from the date of the application for execution—

(a) if the decree is for money, proceed to recover it as if it were an arrear of land revenue; or

(b) if the decree is for any specific movable property, cause the decree to be executed as if it were a decree of a civil court and in so acting may exercise all the powers of a civil court.

82. (1) If, after a period of one month from the date fixed for the payment of any instalment of a sum of money decreed by a ¹[*nyaya panchayat*] under section 76 an instalment or any portion thereof remains unpaid, the decree-holder may, within one year of the date when it fell due, apply for execution to the ¹[*nyaya panchayat*]. Execution of decree through Collector.

¹ These words were substituted for "village bench" or "bench" by Bom. LX of 1947, s. 25.

² These words were substituted for the word "he" by Bom. XVIII of 1939, s. 31 (2).

³ Section 78 was substituted for the original, *ibid.*, s. 32.

⁴ Section 79 was substituted for the original, *ibid.*, s. 33.

(9) On such application for execution, the ¹[*nyaya panchayat*] shall certify to the Collector that the instalment or a portion thereof still remains unpaid, and on receipt of such certification the Collector shall, provide the ¹[*nyaya panchayat*] shall have certified to the Collector within one year from the date of the application for execution, proceed to recover the amount of instalment so remaining unpaid as if it were an arrear of land revenue.

Satisfaction of decree or instalment after certificate.

83. If, after the issue of the certificate to the Collector under section 81 or 82, but before the decree has been executed through the Collector, the decree or the instalment is fully satisfied and satisfaction is recorded under section 80, the ¹[*nyaya panchayat*] shall forthwith certify such satisfaction to the Collector who shall thereupon stay the execution proceedings. All sums of money realised by execution through the Collector shall, after satisfaction of the decree, be refunded to the judgement debtor.

Fine and compensation when payable

84. (1) Every sum ordered to be paid as compensation and every fine imposed under sections 45, 46, 47 and 48 by a ¹[*nyaya panchayat*] shall be payable at once :

Provided that the ¹[*nyaya panchayat*] may allow any person order by it to pay compensation or fine to pay the same within such time, not exceeding fifteen days as it may think proper and such terms as to security as it shall seem to the ¹[*nyaya panchayat*] necessary to impose.

Mode of recovery.

(2) If the amount of fine or compensation remains unpaid for fifteen days from the date of the order, the ¹[*nyaya panchayat*] shall recover the same by distraint and sale of the defaulter's movable property.

(3) If the amount of fine or compensation is not fully recovered the ¹[*nyaya panchayat*] shall certify accordingly to the Collector, and on receipt of such certification the Collector shall, provided the panchayat shall have certified to the Collector within a period of one year from the date when the amount became recoverable by the ¹[*nyaya panchayat*] under sub-section (2), proceed to recover it as if it were an arrear of land revenue and shall remit the amount so recovered to the ¹[*nyaya panchayat*].

Fine or compensation, when realized to be recorded.

85. As soon as the amount of fine or compensation referred to in section 84 is realised by the ¹[*nyaya panchayat*] whether directly or through the Collector, the amount so realised shall be entered in the prescribed register ²* * *

Payment of compensation out of village fund.

86. Any money which has been ordered by the ¹[*nyaya panchayat*], under section 47 or section 48, to be paid as expenses or compensation, shall be paid by it out of the amount realised under sections 45 and 46. ³* * *

¹ These words were substituted for the words "village bench" and "bench" by Bom. LX of 1947, s. 25.

² The words "and shall be credited by the village bench to the village fund" were omitted by the Adaptation of Indian Laws Order in Council.

³ The words "and the payment so made shall be debited to the village fund" were omitted, *ibid*.

87. (1) The ¹[District Court] in any suit and the ²[District Magistrate] in any case may, at any time, either Court or ³[on the application of an aggrieved party or otherwise] District Magistrate or on a reference made by a ⁴[nyaya panchayat] under section 77 by order in writing, ⁵[* * * *] quash any proceedings of a ⁴[nyaya panchayat] at any stage or cancel any decree or order passed by a ⁴[nyaya panchayat].

(2) When an order has been passed by the ⁶[District Court] under sub-section (1) in respect of any suit, the plaintiff may institute a fresh suit for the same relief in a civil court, and the period from the date of the institution of the suit before the ⁴[nyaya panchayat] to the date of such order shall be excluded in computing the period of limitation for the fresh suit.

(3) Where an order has been passed by the ⁷[District Magistrate] under sub-section (1) in respect of any case, proceedings in respect of the same offence may be instituted in the court of a magistrate having jurisdiction.

⁸[87-A. (1) The District Court in any suit and the District Magistrate in any case may at any time on the application of an aggrieved party or otherwise by order in writing transfer any suit or case, as the case may be, to a civil or criminal court competent to try the same. ⁹Transfer of suit or case by the District Court or District Magistrate.

(2) On the transfer of such suit or case, the court to which it is transferred shall hear such suit or case anew as if such suit or case was instituted before it.]

⁸[87-B. Subject to the provisions of this Act in regard to all proceedings under this Act, District Courts and District Magistrates shall have the same powers and shall follow the same procedure as they respectively have and follow in regard to proceedings in connection with decrees or orders of courts subordinate to them in their ordinary jurisdiction.] ⁹Procedure in proceedings before District Court and District Magistrate.

88. No person shall be arrested or imprisoned in execution of a decree under the provisions of this Act. ⁹Bar to arrest and imprisonment in execution of decree.

⁹ CHAPTER VIII-A

ABOLITION OF ⁴ [NYAYA PANCHAYATS] IN GREATER BOMBAY

88-A. Notwithstanding anything contained in this Act, the provisions of sections 37 and 57 shall not apply to the ⁴[nyaya panchayat of any village situated in Greater Bombay. ⁹Abolition of nyaya panchayats in Greater Bombay.

¹ These words were substituted for the words "District Judge" by Bom. XVIII of 1939, s. 34 (1).

² These words were substituted for the word "Collector", *ibid.*

³ These words were substituted for the words "of his own motion or on the application of an aggrieved party", *ibid.*

⁴ These words were substituted for "village bench" or "bench" by Bom. LX of 1947, s. 25.

⁵ The words "cancel the jurisdiction of a village bench or" were deleted, *ibid.*

⁶ These words were substituted for the words "District Judge", by Bom. XVIII of 1939 s. 34 (2).

⁷ These words were substituted for the word "Collector", *ibid.*, s. 34 (3).

⁸ Section 87-A and 87-B were inserted, *ibid.*, s. 35.

⁹ Chapter VIII-A was inserted by Bom. XXIV of 1946, s. 2.

Pending proceedings.

88-B. (1) A ¹[*nyaya panchayat*] constituted before the date of the coming into force of the Bombay Village Panchayats (Amendment) Act, 1946, in respect of a village situated in Greater Bombay and exercising judicial powers conferred upon it under the Act shall stand dissolved on the said date. Bom. XXIV of 1946.

(2) On the dissolution of the ¹[*nyaya panchayat*] under sub-section (1), the provisions of clauses (i) and (ii) of sub-section (2) of section 106 shall apply with the modification that the reference in clause (ii) to the Court of the Civil Judge or Magistrate shall be deemed to be a reference to the relevant civil court or Magistrate in Greater Bombay.

Appeals.

88-C. An appeal against a decree or order passed by such ¹[*nyaya panchayat*] before its dissolution under sub-section (1) of section 88-B shall within thirty days from the date of the decree or order, as the case may be, lie to such authority as the ²[State] Government may direct. Every order passed in appeal shall be final and shall not be subject to any appeal, revision or review :

Provided that any such appeal pending on the date of the coming into force of the Bombay Village Panchayats (Amendment) Act, 1946, shall be disposed of as if the said Act had not been passed. Bom. XXIV of 1946.

CHAPTER IX

TAXATION AND RECOVERY OF CLAIMS

Levy of taxes and fees by panchayat.

89. ³[(1) Every panchayat shall levy a tax upon the owners or occupiers of houses including farm buildings whether or not subject to payment of agricultural assessment, and of lands which are not subject to payment of agricultural assessment, within the limits of the village, in such manner, at such rates and subject to such exemption as may be prescribed.

(1A) Where an owner of a house or land has left the village or cannot otherwise be found, any person to whom such house or land has been transferred shall be liable for the tax leviable under sub-section (1) from such owner.

(1B) The rules made for the levy of the tax specified in sub-section (1) may provide that the payment of such tax may be made either in cash or by rendering of work and labour].

¹ These words were substituted for "village bench" and "bench" by Bom. LX of 1947, s. 25.

² Sub. by the Adaptation of Laws Order, 1950.

³ Sub-sections (1), (1A) and (1B) were inserted, by Bom. LX of 1947, s. 20.

¹[(2) It shall be competent to a panchayat to levy all or any of the following taxes or fees at such rates and in such manner ²[and subject to such exemptions] as may be prescribed, namely :—]

(i) ³* * * *

(ii) a pilgrim tax;

(iii) a tax on ⁴[fairs, festivals and entertainments];

(iv) a tax on sales of goods;

(v) octroi;

(vi) a tax on marriages, adoptions and feasts;

⁵[(via) a tax on shops and hotels;

(vib) a tax on premises where machinery is run by steam, oil or electric power for any purpose other than a domestic or agricultural purpose;]

⁶[(vic) a fee on markets and weekly bazars;

(vid) a fee on cart stands;]

⁷[(vie) a fee for supply of water from wells and tanks vesting in it for purposes other than domestic use;]

⁸[(vi) any other tax (not being a toll on motor vehicles or trailers save as provided by section 14 of the Bombay Motor Vehicles Tax Act, 1935) which the ⁹[State] Legislature has, under the ⁹[Constitution] power to impose in the ⁹[State] and which has been approved by the district local board and sanctioned by the ⁹[State] Government.]

Bom.
XXXIV of
1935.

¹⁰[(2A) Notwithstanding anything contained in sub-section (2) every panchayat shall levy any one of the taxes ⁹[or fees] specified in sub-section (2) as may be prescribed in regard to the panchayat.]

(3) Any person aggrieved by the assessment levy or imposition of any such tax or fee may appeal to the ¹¹[standing committee of the district local board]. The decision of the ¹¹[standing committee of the district local board] in the matter shall be final.

(4) ¹²[The ⁹[State] Government] may suspend the levy or imposition of any tax or fee ¹³* * * and may at any time rescind such suspension.

¹ These words, figures and brackets were substituted for the words, figures and brackets “(2) Taxes or fees which are leviable by a panchayat under sub-section (1) are:—” by Bom. XVIII of 1939, s. 36 (b)(i).

² These words were inserted by Bom. II of 1945, s. 5(ii), read with Bom. LX of 1947, s. 2.

³ Sub-clause (i) was deleted by Bom. XVIII of 1939, s. 36 (b)(ii).

⁴ These words were substituted for “fairs and festivals” by Bom. LX of 1947, s. 20.

⁵ Clauses (via) and (vib), were inserted by Bom. LX of 1947 s. 20.

⁶ Ins. by s. 12 of Act XXXI of 1950.

⁷ Ins. by s. 5 of Act X of 1951.

⁸ Clause (vii) was substituted for the original by the Adaptation of Indian Laws Order in Council.

⁹ Sub. by the Adaptation of Laws Order, 1950.

¹⁰ This sub-section was inserted by Bom. LX of 1947, s. 20.

¹¹ These words were substituted for “district local board”, *ibid*.

¹² The words “the Provincial Government” were substituted for the word “Government” by the Adaptation of Indian Laws Order in Council.

¹³ The words, brackets and figures “referred to in sub-section (1)” were deleted by Bom. XVIII of 1939, s. 36 (c).

¹[(5) Until provision to the contrary is made by the ²[Parliament], a panchayat which, immediately before the commencement of ³[the Constitution] was lawfully levying under this section, as then in force, any tax other than the taxes mentioned in sub-section (2) may continue to levy that tax.]

Power of district local board to increase taxation of panchayat.

90. (1) If in the opinion of the district local board the regular income of a panchayat falls below what is necessary for the proper discharge of the duties specified in sections 26 and 28, the district local board may require the panchayat to take steps, within six months, to increase its income to such extent as the district local board considers necessary. If the panchayat fails to take adequate steps to increase its income to the required extent, the district local board may require it to levy or increase any of the taxes or fees specified in section 89 :

Provided that the district local board shall not compel the panchayat to levy or increase any tax or fee beyond the maximum rate to be prescribed in this behalf.

(2) Any panchayat may appeal to the Commissioner against an order made under sub-section (1) and the Commissioner may stay the execution of such order until he has decided the appeal.

Recovery of taxes and other dues.

91. (1) When any tax or fee has become due, a panchayat shall with the least practicable delay, cause to be presented to the person liable for the payment thereof a bill for the amount due from him, specifying the date on or before which the amount shall be paid.

(2) If any person fails to pay any tax ³[or fee] or any other sum due from him to a panchayat under this Act or the rules or by-laws on or before the specified date of payment, the panchayat shall cause a writ of demand ⁴[in the prescribed form] to be served on the defaulter.

⁵[(2A) The presentation of every bill under sub-section (1) and the service of every writ of demand under sub-section (2) shall be effected by an officer or servant of the panchayat or other person authorised by the panchayat in this behalf—

(a) by giving or tendering the bill or writ to the person to whom it is addressed; or

(b) if such person is not found, by leaving the bill or writ at his last known place of abode, if within the limits of the village, or by giving or tendering the bill or writ to some adult male member or servant of his family; or

¹ Sub-section (5) was inserted by the Adaptation of Indian Laws Order in Council.

² Sub. by the Adaptation of Laws Order, 1950.

³ Ins. by s. 13 of Act XXXI of 1950.

⁴ These words were inserted by Bom. XVIII of 1939, s. 37 (1).

⁵ Sub-section (2A) was inserted by Bom. II of 1945, s. 6, read with Bom. LX of 1947, s. 2.

(e) if such person does not reside within the limits of the village, and his address elsewhere is known to the sarpanch or other person directing the issue of the bill or writ, then by forwarding the bill or writ to such person by registered post, under cover bearing the said address; or

(d) if none of the means aforesaid be available, then by causing the bill or writ to be affixed on some conspicuous part of the building or land, if any, to which the bill or writ relates.]

(3) If the sum for which a writ of demand has been served is not paid within thirty days from the date of such service, the panchayat may levy such sum by distraint and sale of the movable property of the defaulter ¹[in the prescribed manner].

²[(4) Fees for—

(a) every distress made under sub-section (3),

(b) every writ of demand issued under sub-section (2), and

(c) the costs of maintaining any livestock seized under sub-section (3), shall be chargeable at such rate as may be prescribed.

(4A) Notwithstanding anything contained in the foregoing sub-sections any tax or fee payable on demand in accordance with the rules shall be recoverable in such manner as may be prescribed.]

(5) If a panchayat is unable to recover a tax ³[or fee] or other sum due to it as aforesaid, it may furnish to the mamlatdar or mahalkari a statement of the arrears due, with a request for the recovery of the same through the village officers, and on receipt of such statement of arrears, the ⁴[mamlatdar or mahalkari shall], provided such statement of arrears shall have been furnished by the panchayat to the mamlatdar or mahalkari within one year from the date specified in the bill presented under sub-section (1), proceed to recover the same as an arrear of land revenue through the village officers. For the recovery of such sums, the village officers shall be remunerated by the panchayat in such manner as may be prescribed ⁵* * *.

(6) If a panchayat fails to recover any tax, ³[fee], fine or other sum due to it, or neglects to take action under sub-sections (2) and (3) of section 84 or (2) and (3) of this section the district local board may apply to the Collector to recover the same as an arrear of land revenue :

¹ These words were inserted by Bom. XVIII of 1939, s. 37 (2).

² Sub-sections (4) and (4A) were substituted for sub-section (4), *ibid.*, s. 37 (3).

³ Ins. by s. 13 of Act XXXI of 1950.

⁴ These words were substituted for the words "mamlatdar or mahalkari may", by Bom. XVIII of 1939, s. 37 (4).

⁵ The words "by bye-laws" were omitted by Bom. XXIV of 1936, s. 2, Sch.

Provided that no such application shall be made to the Collector after the expiry of ¹[two years] from the date when the amount became certifiable under sub-section (3) of section 84 or from the date specified in the bill presented under sub-section (1) of this section, as the case may be.

On receipt of such application from the district local board, the ²[Collector shall] after holding such inquiry as he thinks fit, proceed to recover the sum as an arrear of land revenue ³[unless such sum is not under section 92 directed to be written off.]

Collector's power to direct irrecoverable sums to be written off.

92. The Collector may direct—

- (a) any sum certified by a panchayat and recoverable by him under sections 81, 82 and 84 and sub-section (6) of section 91;
- (b) any arrear of a tax ⁴[or fee] or any other sum due to a panchayat and recoverable through a mamlatdar or mahalkari under sub-section (5) of section 91;

⁵[(c) any other sum due to a panchayat whether under this Act, or otherwise]

to be written off, if in the opinion of the Collector, such sum or arrears are irrecoverable :

⁶[Provided that no sum exceeding Rs. 500 shall be written off under clause (c) except with the previous sanction of the State Government.]

CHAPTER X

FINANCIAL ASSISTANCE TO PANCHAYATS

Contribution by ⁷[State] Government.

⁷[92-A. The ⁸[State] Government shall make every year a grant to every panchayat levying the taxes under sub-sections (1) and (2A) of section 89 equivalent in amount to fifteen per cent. of the ordinary land revenue or twenty-five per cent. of the local fund cess, realised in ⁹[the previous year] within the limits of the village, whichever is greater.]

Loan by District Local Board.

⁹[93. Notwithstanding anything contained in the Bombay Local Boards Act, 1923, the district local board may, subject to rules, grant a loan to a panchayat within the district for the purposes of this Act.] Bom. VI of 1923.

¹ These words were substituted for the words "one year" by Bom. XVIII of 1939, s. 37 (5) (a).

² These words were substituted for the words "Collector may", *ibid.*, s. 37 (5) (b).

³ These words and figures were inserted, *ibid.*, s. 37 (5) (c).

⁴ Ins. by s. 13 of Act XXXI of 1950.

⁵ Ins. by s. 6 of Act X of 1951.

⁶ Sub. by the Adaptation of Laws Order, 1950.

⁷ This section was inserted by Bom. LX of 1947, s. 21.

⁸ These words were substituted for the words "that year" by Bom. IV of 1949, s. 5.

⁹ This section was substituted for the original by Bom. LX of 1947, s. 22.

CHAPTER XI

CONTROL

94. (1) The Collector or the district local board shall have power— Power to call for proceedings, etc.

(a) to call for any extract from the proceedings of panchayat, any book or document in the possession or under the control of a panchayat, and any return, statement, account or report which the Collector or the district local board may think fit to require such panchayat to furnish; and

(b) to require a panchayat to take into consideration—

(i) any objection which appears to the Collector or the district local board to exist to the doing of anything which is about to be done or is being done by such panchayat, or

(ii) any information which the Collector or the district local board is able to furnish, and which appears to the Collector or the district local board to necessitate the doing of a certain thing by the panchayat, and to make a written reply to the Collector or the district local board, as the case may be, within a reasonable time, stating its reasons for not desisting from doing or for not doing such things.

(2. All or any of the powers given to the district local board under sub-section (1) may be delegated by it to its President, Vice-President, Chief Officer, Public Health Officer or Executive Engineer.

95. (1) The district local board may delegate to the President, Vice-President, the Chief Officer, Public Health Officer or any other officer specially appointed by the district local board in this behalf the duties of encouraging the establishment and fostering the growth of panchayats and of assisting panchayats in the proper exercise of their powers and performance of their duties under this Act. Delegation of duties, appointment of officers, utilisation of honorary agencies for encouraging the establishment and fostering the growth of panchayats.

(2) It shall be competent to the district local board to accept and utilise in an honorary capacity in the performance of any of the duties which may be delegated under sub-section (1) the services of any person who in the opinion of such Board is specially fitted to assist in this behalf.

(3) It shall be competent to ¹[the ²[State] Government] to appoint an officer to exercise such of the powers and perform such of the duties of a Collector ³[and if the district local board has been superseded the duties of a district local board] under this Act as ¹[the ²[State] Government] may prescribe. Such officer shall also perform such other duties and exercise such other powers as ¹[the ²[State] Government] may prescribe for the purpose of encouraging the establishment

¹ The words "The Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

² Sub. by the Adaptation of Laws Order, 1950.

³ These words were inserted by Bom. XVIII of 1939, s. 39.

and fostering the growth of panchayats and ¹[nyaya panchayats] and of assisting and advising panchayats and ¹[nyaya panchayats] in the proper exercise of their powers and performance of their duties under this Act.

Power of entry.

96. The district local board may authorise its president, vice-president, or any of its officers to enter on and inspect, or cause to be entered on and inspected, any immovable property occupied by any panchayat or any work in progress under its direction.

Audit of accounts.

97. The audit of the accounts of a panchayat shall, unless provision is otherwise made by ²[the ³[State] Government] in that behalf, be carried out each year by the district local board, and such board shall within one month of the completion of the audit, forward a copy of the audit note to the collector.

Reduction of establishment.

98. (1) If, in the opinion of the Collector or the district local board, the number of persons maintained or proposed to be maintained by a panchayat as officers or servants, or the remuneration given or proposed to be given by the panchayat to such persons is excessive, the panchayat shall, on the requirement of the Collector or the district local board, as the case may be, reduce such number or remuneration.

(2) If there is a difference between the requirement of the Collector or of the district local board under sub-section (1), the panchayat shall refer the matter in difference to the Commissioner whose decision shall be final.

(3) The panchayat may appeal to the Commissioner against any requirement made under sub-section (1), and the decision of the Commissioner in the matter shall be final.

Suspension of execution of order.

99. (1) If, in the opinion of the Collector, the execution of any order or resolution of a panchayat, or the doing of anything which is about to be done or is being done by or on behalf of a panchayat, is causing or is likely to cause injury or annoyance to the public, or to lead to a breach of the peace, he may, by order in writing, suspend the execution or prohibit the doing thereof.

(2) When the Collector makes an order under sub-section (1) he shall forthwith send to the panchayat affected thereby a copy of the order, with a statement of the reasons for making it.

(3) The Collector shall forthwith submit to the Commissioner report of every case occurring under this section and the Commissioner may revise or modify any order made therein and make in respect thereof any other order which the Collector could have made.

Execution of work in case of emergency.

100. (1) In cases of emergency the Collector may provide for the execution of any work or the doing of any act which a panchayat is empowered to execute or do, and the immediate execution or doing of which is, in his opinion, necessary

¹ These words were substituted for the original by Bom. LX of 1947, s. 25.

² The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

³ Sub. by the Adaptation of Laws Order, 1950.

for the health or safety of the public, and may direct that the expense of executing the work or doing the act shall be forthwith paid by the panchayat.

(2) If the expense is not so paid, the Collector may direct the officer in charge of the treasury in which the village fund is kept to pay such expense, or so much thereof as is possible, from the balance of such fund in his hands.

(3) The Collector shall forthwith report to the Commissioner every case in which he exercises the powers under sub-section (1).

101. (1) If at any time it appears to the district local board that a panchayat has made default in the performance of any duty specified in section 26, it may order the duty to be performed within a specified period, and, if the duty is not performed within the period specified, the district local board may appoint some person to perform it, and direct that the expense of performance shall be paid by the defaulting panchayat, within such period as the district local board may fix.

Default in performance of duty.

(2) If the expense is not so paid, the district local board may direct the person in custody of the village fund to pay such expense, or so much thereof as is possible, from the balance of such fund in his hands.

¹[(2A) If at any time it appears to the ²[State] Government or any officer authorised by the ³[State] Government in this behalf that a panchayat has made default in the performance of any duty specified in section 26 and that the district local board has failed or neglected to take action under sub-section (1), the ²[State] Government or the officer authorised, as the case may be, may take such action as could have been taken by local board under sub-sections (1) and (2).]

(3) The district local board ³[or the officer authorised, as the case may be,] shall forthwith report to the Commissioner every case occurring under this section and the Commissioner may revise or modify any order made therein and make in respect thereof any other order which the district local board could have made.

102. (1) If, in the opinion of ⁴[the ²[State] Government] a panchayat exceeds or abuses its powers or makes persistent default in the performance of the duties imposed on it under section 26 or any other law for the time being in force ⁵[or fails to levy a tax under sub-section (1) or sub-section (2A) of section 89], ⁶[or persistently disobeys any

Dissolution or supersession of panchayat for default.

¹ Sub-section (2A) was inserted by Bom. XVIII of 1939, s. 40 (1).

² Sub. by the Adaptation of Laws Order, 1950.

³ These words were inserted, by Bom. XVIII of 1939, s. 40 (2).

⁴ The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

⁵ This portion was inserted by Bom. LX of 1947, s. 23.

⁶ These words were inserted by Bom. XVIII of 1939, s. 41.

of the orders of the Collector or Commissioner under section 99], ¹[the ²[State] Government] may, after consultation with the district local board by an order in the ³[*Official Gazette*]

(i) dissolve such panchayat, or

(ii) supersede such panchayat for the period specified in the order.

(2) When a panchayat is dissolved or superseded, all members of the panchayat shall, from the date specified in the order, vacate their offices as such members.

(3) When a panchayat is dissolved, it shall be reconstituted in the manner provided in this Act.

(4) If a panchayat is superseded—

(a) all the powers and duties of the panchayat shall, during the period of supersession, be exercised and performed by such person or persons ¹[the ²[State] Government] may, from time to time, appoint in that behalf; and

(b) all property vested in the panchayat shall during the period of supersession, vest in ¹[the ²[State] Government]; and

(c) on the expiry of the period of supersession, the panchayat shall be reconstituted in the manner provided in this Act, and the persons vacating office shall be eligible for re-election or renomination.

Dissolution and reconstitution of panchayat on alteration of limits of village.

103. (1) When, during the term of the panchayat the limits of a village are altered, the ⁴[Collector] may, by order in writing dissolve such panchayat and direct a panchayat—

(i) to be reconstituted for the village of which the panchayat has been dissolved; or

(ii) to be established for a village which has been newly declared.

The members of the panchayat which has been dissolved shall vacate their office from the date specified in the order.

(2) The panchayat reconstituted or established under the provisions of sub-section (1) shall consist of such members, either elected, ⁵[* * *] or appointed in such manner as ⁴[Collector] shall, by order in writing, direct.

The sarpanch and deputy sarpanch of the panchayat so reconstituted or established shall be elected in the manner provided in this Act.

(3) The term of the panchayat so reconstituted or established shall be for such period, not exceeding one year as the ⁴[Collector] shall, by order in writing, specify.

¹ The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

² Sub. by the Adaptation of Laws Order, 1930.

³ The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by the Adaptation of Indian Laws Order in Council.

⁴ The word "Collector" was substituted for the word "Commissioner" by Bom. XVIII of 1939.

⁵ s. 42. ⁶ "The word nominated" was deleted, *ibid.*, s. 42.

(4) On the expiry of the term of the panchayat in accordance with the provisions of sub-section (3), the panchayat shall be constituted in the manner provided by this Act.

104. (1) When a panchayat has been dissolved and reconstituted or established under section 103, so much of the village fund and other property vesting in the panchayat which has been dissolved shall vest in, and such portion of the debts and obligations shall be transferred to, the reconstituted or established panchayat, as the Commissioner may, by order in writing, direct.

Vesting of property, etc., of panchayat which has been dissolved in reconstituted or established Panchayat.

(2) The rights and liabilities of the panchayat which has been dissolved in respect of contracts, agreements and other matters or things arising in or relating to any part of the area subject to the authority of the reconstituted or established panchayat shall vest in such panchayat.

(3) Any notice, tax, order, licence, permission, rule or bye-law made, issued or imposed in respect of any part of the area subject to the authority of the reconstituted or established panchayat shall be deemed to have been made, issued or imposed by or in respect of such panchayat, unless and until it is superseded by any notice, tax, order, licence, permission, rule or bye-law made, issued or imposed by or in respect of such panchayat.

¹[**104-A.** Where by a notification under section 4 any local area forming part of a village is excluded from such village, and such area is not included in or declared to be a village so much of the village fund and other property vesting in the panchayat of the village of which such area formed part, as the Commissioner may by order in writing direct, shall vest in the district local board to be utilised for the benefit of the area as the district local board may think fit.]

Effect of area being excluded from village.

105. On any area ceasing to be a village, by virtue of any notification under section 4,—

Effect of area ceasing to be a village.

(a) the panchayat shall be dissolved and all members of the panchayat shall vacate office as from the date of the notification;

(b) the unexpended balance of the village fund and the property vesting in the panchayat shall vest in the district local board, to be utilised for the benefit of the inhabitants of the area as the district local board may think fit.

¹ Section 104-A was inserted by Bom. XVIII of 1939, s. 4C

Effect of dissolution or supersession of panchayats or of withdrawal of judicial powers of ¹[nyaya panchayats] on ¹[nyaya panchayats] and proceedings pending before them.

106. (1) When a panchayat is dissolved or superseded under section 102, 103 or 105, the ¹[nyaya panchayat] constituted in the village for which the panchayat was established ²[or where all the judicial powers of a ¹[nyaya panchayat] have been withdrawn under the proviso to sub-section (2) of section 37 such ¹[nyaya panchayat]] shall be deemed to have been dissolved and all members of the ¹[nyaya panchayat] shall vacate office as from the date of dissolution or supersession ³[or the withdrawal of judicial powers] as the case may be.

(2) On the dissolution of the ¹[nyaya panchayat] under sub-section (1)—

(i) the provisions of sub-sections (2) and (3) of section 87 shall be deemed to apply in respect of any suits or cases pending before the ¹[nyaya panchayat] as if ⁴[the District Court or District Magistrate], as the casemay be, had passed an order under sub-section (1) of section 87 quashing such suits or cases; and

(ii) all pending proceedings and applications for the execution of decrees or orders in suits, and for the recovery of fines and compensation in cases shall be transferred to the Court of the Subordinate Judge or the Magistrate, as the case may be, who would have had jurisdiction to try the suit or case if the ¹[nyaya panchayat] had not been constituted and such Subordinate Judge or Magistrate, as the case may be, shall deal with the proceedings or applications as if the suit or case out of which the proceedings or applications arose, had been heard and decided by such Subordinate Judge or Magistrate.

⁵[(3) If any local area is excluded from a village and no panchayat is constituted for the area so excluded the provisions of sub-section (2) shall, so far as may be, apply in respect of any suits, cases, proceedings or applications which may be pending before the ¹[nyaya panchayat] in respect of the said area, as if so far as such suits, cases, proceedings and applications are concerned, the ¹[nyaya panchayat] had been dissolved.]

Authority of ⁶[State] Government.

107. (1) In all matters connected with this Act, ⁷[the ⁸[State] Government] shall have and exercise the same authority and control over the district local boards as it has and exercises over them under the Bombay Local Boards Act, 1923. Bom. VI of 1923.

¹ These words were substituted for "village bench" or "bench" by Bom. LX of 1947, s. 25.

² These words, figures and brackets were inserted by Bom. XVIII of 1939, s. 44 (1) (a).

³ These words were inserted, *ibid.*, s. 44 (1) (b).

⁴ These words were substituted for the word "the District Judge or the Collector", *ibid.*, s. 44 (2).

⁵ Sub-section (3) was inserted, *ibid.*, s. 44 (3).

⁶ Section 107 was renumbered as section 107 (1), *ibid.*, s. 45.

⁷ The words "The Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

⁸ Sub. by the Adaptation of Laws Order, 1950.

¹[(2) In all matters connected with this Act, the ²[State] Government and the Commissioners and Collectors shall have and exercise the same authority and control over the Commissioners, the Collectors and their subordinates, respectively, as they have and the exercise over them in the general and revenue administration.]

³[107-A. The ²[State] Government may call for and ⁴[State] Government may call for examine the record of proceedings of any officer (except the proceedings of the District Court or the District Magistrate) in judicial proceedings in appeal, revision or reference from the proceedings of a ⁴[nyaya panchayat] for the purpose of satisfying itself as to the legality or propriety of any order passed and may revise or modify the order as shall seem fit.]

CHAPTER XII

RULES AND BYE-LAWS

108. (1) ⁵[The ²[State] Government] may, by notification in the ⁶[Official Gazette], make rules—

- (a) under section 4, regulating the manner in which the ⁷[Collector] may hold an inquiry;
- (b) under section 6, ⁸[prescribing the number of seats to be reserved for the representatives of women, ⁹[Scheduled Castes and Scheduled Tribes] in each village panchayat];
- (c) under section 7, prescribing the manner in which the election of members shall be held;
- (d) under section 23, regulating the manner in which notice of a vacancy in the office of a sarpanch, deputy sarpanch or members of a panchayat, shall be given;
- ¹⁰[(d1) under section 26-A, prescribing the persons in the village from whom and the manner in which the costs of watch and ward under clause (j) of sub-section (1) of section 26-A shall be levied and recovered;]
- (e) under section 32, prescribing the custody in which all funds received by and all sums accruing to a panchayat shall be kept;

¹ Sub-section (2) was inserted by Bom. XVIII of 1939, s. 45.

² Sub. by the Adaptation of Laws Order, 1950.

³ Section 107-A was inserted by Bom. XVIII of 1939, s. 46.

⁴ These words were substituted for the words "village bench" and 'bench' by Bom. LX of 1947, s. 25.

⁵ The words "The Provincial Government" were substituted by the word "Government" by the Adaptation of Indian Laws Order in Council.

⁶ The words "Official Gazette" were substituted for the words "Bombay Government Gazette", *ibid.*

⁷ The word "Collector" was substituted for the word "Commissioner" by Bom. XVIII of 1939, s. 47 (a).

⁸ These words were substituted for the words "regulating the manner in which the Collector shall nominate the holder or his representative" *ibid.*, s. 47 (b).

⁹ Sub. by s. 7 of Act XVII of 1950 (also see foot-note 5 on page 72).

¹⁰ This clause was inserted by Bom. LX of 1947, s. 24.

- ¹[(e1) under section 33, prescribing the ²[qualifications], powers, duties, remuneration and conditions of service ³[(including disciplinary matters)] of the Secretary of the panchayat];
- (f) under section 36, prescribing the date of submission and form of annual budgets, returns and accounts and the manner in, and the time at, which the meeting of the residents of the village shall be convened;
- ⁴[(g) under section 37, prescribing the manner in which the members constituting a ⁵[nyaya panchayat] shall be elected, and regulating any of the matters specified in sub-section (6) of the said section;
- (gg) under section 37-B, prescribing the other duties which the Secretary of a panchayat acting as the Judicial Clerk of that panchayat shall do;]
- (h) under section 59, prescribing the fees payable on the institution of suits and cases;
- (i) under sections 60, 72, 80 and 85 prescribing the particulars to be entered in registers for suits and cases;
- (j) under section 62, prescribing the form of summons;
- ⁶[(k)* * * * *]
- (l) under section 76, prescribing the scale of fees which a ⁵[nyaya panchayat] may direct to be paid in a suit or case;
- (m) under section 89, prescribing the rate and the manner in which ⁷[and the exemptions subject to which] taxes and fees specified in the section shall be leviable;
- ⁸[(m1) under sub-section (2A) of section 89, prescribing for each panchayat any one of the taxes ⁹[or fees] specified in sub-section (2);]
- (n) under section 90, prescribing the maximum for the levy of taxes or fees specified in section 89;
- ¹⁰[(n1) under sub-section (2) of section 91, prescribing the form of the writ to be presented to the defaulter;
- (n2) under sub-section (3) of section 91, prescribing the form of warrant, the method of attachment, auction and sale of the defaulter's movable property;]

¹ Clause (e1) was inserted by Bom. XVIII of 1939, s. 47 (bb).

² This word was inserted by Bom. LX of 1947, s. 24.

³ These words and brackets were inserted, *ibid*.

⁴ Clauses (g) and (gg) were substituted for clause (g) by Bom. XVIII of 1939, s. 47 (c).

⁵ These words were substituted for "village bench" or "bench" by Bom. LX of 1947, s. 25.

⁶ Clause (k) was deleted by Bom. XVIII of 1939, s. 47 (d).

⁷ These words were inserted by Bom. II of 1945, s. 7, read with Bom. LX of 1947, s. 2.

⁸ This clause was inserted by Bom. LX of 1947, s. 24.

⁹ Ins. by s. 15 of Act XXXI of 1950.

¹⁰ Clauses (n1) and (n2) were inserted by Bom. XVIII of 1939, s. 47 (dd).

- (o) ¹[under sub-section (4) of section 91, prescribing the rates of fees for writs of demand, distress and costs of maintaining any live-stock seized, and] under sub-section (5) of section 91, prescribing the remuneration of village officers for the recovery of taxes and other sums due to a panchayat and the manner in which such remuneration shall be paid;
- (p) under section 93, prescribing the terms on which loans may be granted to a panchayat by the district local board;
- (q) under section 95, prescribing the powers and duties which may be delegated to or exercised or performed by an officer or person appointed;^{2**}
- (r) under sub-sections (3) and (4) of section 112, regulating the delegation by ³[the District Court or the District Magistrate] of the powers therein referred to;
- ⁴[(rr) authorising the payment of contributions at such rates and subject to such conditions as may be prescribed in such rules, to any provident fund which may be established by a panchayat, or with the approval of the panchayat, by the officers and servants of the panchayat;]
- ⁵[(s) for any other matter which may be prescribed;]

(2) The rules to be made under sub-section (1) shall be subject to the condition of previous publication:

⁶[Provided that rules under clause (B) of sub-section (1) may be made without previous publication.]

(3) Rules made under sub-section (1) shall be laid ⁷[before each of the ⁸[Houses] of the ⁸[State] Legislature] at the session ⁹[thereof] next following and shall be liable to be modified or rescinded by a resolution ¹⁰[in which both ⁸[Houses] concur] and such rule shall, after notification in the ¹¹[*Official Gazette*], be deemed to have been modified or rescinded accordingly:

Provided that when, in the opinion of ¹²[the ⁸[State] Government], such modification or rescission is likely to defeat or frustrate any of the purposes of this Act, ¹³[the ⁸[State] Government] may, by notification in the ¹¹[*Official*

¹ These words, brackets and figures were inserted by Bom. XVIII of 1939, s. 47 (e).

² The word "and" was deleted, *ibid.*, s. 47 (f).

³ These words were substituted for the words "the District Judge or the Collector". *ibid.*, s. 47 (g).

⁴ This clause was inserted by Bom. IV of 1949, s. 6.

⁵ Clause (s) was inserted by Bom. XVIII of 1939, s. 47 (h).

⁶ This proviso was added by Bom. XLV of 1949, s. 8.

⁷ The words "before each of the Chambers of the Provincial Legislature" were substituted for the words "upon the table of the Bombay Legislative Council" by the Adaptation of Indian Laws Order in Council.

⁸ Sub. by the Adaptation of Laws Order, 1950.

⁹ The word "thereof" was substituted for the words "of the said Council", by the Adaptation of Indian Laws Order in Council.

¹⁰ The words "in which both Chambers concur" were substituted for the words "of the said Council", *ibid.*

¹¹ The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", *ibid.*

¹² The words "the Provincial Government" were substituted for the word "Government", *ibid.*

Gazette], declare that the modification or rescission shall have no effect and thereupon the rules shall remain in force as if it had not been modified or rescinded.

Bye-laws.

109. (1) The district local board may, with the previous sanction of the Commissioner, make bye-laws generally for the carrying out of the purposes of this Act.

(2) Without prejudice to the generality of the foregoing provision, the district local board may make bye-laws—

- (a) under section 19, prescribing the time and place of the sittings and regulating the procedure at meetings of a panchayat, and fixing a quorum;
- (b) under section 20, prescribing the powers and duties of a sarpanch which may be exercised and performed by a deputy sarpanch;
- (c) under section 26—
 - (i) for the purification and protection from pollution of all sources of water used for drinking purposes;
 - (ii) for the prohibition of the removal or use for drinking purposes of any water from any stream, tank, well or other source, where such removal or use causes, or is likely to cause, disease or injury to health, and the prevention of such removal or use by the filling in or covering over of such tank or well, or by any other method which may be considered advisable;
 - (iii) for the prohibition of the deposit or storage of manure, refuse or other offensive matter in a manner or in places prejudicial to the public health, comfort or convenience;
 - (iv) for the regulation of offensive callings or trades;
 - (v) for the disposal of corpses by burning or burial,
 - (vi) for the excavation of earth and the filling up of excavations and depressions injurious to health or offensive to the neighbourhood;
 - (vii) for the removal of noxious vegetation;
 - (viii) for the repair and removal of dangerous or ruinous buildings;
 - (ix) for the prevention of the erection of buildings without adequate provisions for ventilation, or the laying out and location of streets;
 - (x) for the control of fairs and bazars, and the regulation of markets, slaughter-houses and cart stands;
 - (xi) for the inspection and destruction of unfit food and drink exposed for sale; and
 - (xii) for the general regulation of sanitation and conservancy;

- (d) under section 28, for the supervision of labourers employed by local boards, and of repairs to dharamsalas, the management and maintenance of cattlepounds, execution of works entrusted by the district local board, distribution of irrigation water and performance of other duties assigned by ¹[the ²[State] Government].
- (3) Any bye-law made under the foregoing sub-sections may provide that a contravention thereof shall be punishable—
- (a) with a fine, which may extend to Rs. ³[20], or
- (b) in the case of a continuing contravention, with a fine, which may extend to Re. 1 per day after conviction for the first contravention during the period within which such contravention continues.

CHAPTER XIII

MISCELLANEOUS

110. (1) Every member of a panchayat shall be personally liable or the loss, waste or misapplication of any money or other property of the panchayat, to which he has been a party, or which has been caused or facilitated by his misconduct or gross neglect of his duty as a member. Liability of members for loss, waste or misapplication.

(2) If, after giving the member concerned a sufficient opportunity for showing cause to the contrary, the Collector is satisfied that the loss, waste or misapplication of any money or other property of the panchayat is a direct consequence of misconduct or gross neglect on his part, the Collector ⁴[shall], by order in writing, direct such member to pay to the panchayat before a fixed date, the amount required to reimburse it for such loss, waste or misapplication.

(3) If the amount is not so paid the Collector shall recover it as an arrear of land revenue and credit it to the village fund.

(4) The decision of the Collector shall be ⁵[subject to an appeal to the Commissioner] as to the liability of a member under sub-section (2) and as to the amount to be recovered from him.

111. (1) No action shall lie against any member, officer, servant or agent of a panchayat or a ⁶[nyaya panchayat] acting under its direction, in respect of anything done in good faith under this Act or any rule or bye-law. Bar of action against nyaya panchayats, etc., and previous notice before institution

(2) No action shall be brought against any panchayat or ⁶[nyaya panchayat] or any member, officer, servant or agent of such panchayat or ⁶[nyaya panchayat] acting under

¹ The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

² Sub. by the Adaptation of Laws Order, 1950.

³ Sub. by s. 16 of Act XXXI of 1950.

⁴ The word "shall" was substituted for the word "may" by Bom. XVIII of 1935, s. 48(1).

⁵ These words were substituted for the word "final" by Bom. XVIII of 1939, s. 48 (2).

⁶ These words were substituted for the words "village bench" or "bench" by Bom. LX of 1947, s. 25.

its direction for anything done or purporting to have been done under this Act, until the expiration of three months next after notice in writing has been left or delivered at the office of the panchayat or ¹[*nyaya panchayat*] and also at the residence of the member, officer, servant or agent thereof against whom the action is intended to be brought. The notice shall state the cause of action, the nature of the relief sought, the amount of compensation claimed and the name and place of abode of the person, who intends to bring the action.

(3) Every such action shall be commenced within six months after the accrual of the cause of action and not afterwards.

(4) If any panchayat or ¹[*nyaya panchayat*] or person to whom a notice under sub-section (2) is given shall, before an action is brought, tender sufficient amends to the plaintiff and pay into court the amount so tendered, the plaintiff shall not recover more than the amount so tendered. The plaintiff shall also pay all costs incurred by the defendant after such tender.

Delegation
of powers.

112. (1) ²[The ³[State] Government] may, by notification in the ⁴[*Official Gazette*], authorise the commissioner or any officer ⁵[including an officer] specially empowered under sub-section (3) of section 95 to exercise in respect of panchayats * * * * any of the powers which may be exercised by ²[the ³[State] Government] under this Act ⁷[except the powers in respect of the ¹[*nyaya panchayat*] under Chapter VI].

(2) ²[The ³[State] Government] may also, by notification in the ⁴[*Official Gazette*] authorise any person to exercise in respect of panchayats any of the powers conferred on a district local board under the provisions of this Act, when such district local board shall have been dissolved or superseded.

(3) Subject to rules made in this behalf, the ⁸[District Court] may delegate to a Subordinate Judge the powers exercisable by ⁹[the District Court in regard to suits under this Act] in respect of a ¹[*nyaya panchayat*] in a village within the jurisdiction of the said Subordinate Judge.

¹⁰[(4) Subject to rules made in this behalf, the District Magistrate may delegate to a Magistrate of the First Class exercising appellate jurisdiction under section 407 of the Criminal Procedure Code, 1898, the powers exercisable ^V of 1898, by him in regard to cases under this Act in respect of a ¹[*nyaya panchayat*] in a village within the said jurisdiction of the said Magistrate.

¹ These words were substituted for the words "village bench" or "bench" by Bom. LX of 1947, s. 25.

² The words "The Provincial Government" were substituted by the word "Government" by the Adaptation of Indian Laws Order in Council.

³ Sub. by the Adaptation of Laws Order, 1950.

⁴ The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", by the Adaptation of Indian Laws Order in Council.

⁵ These words were inserted by Bom. XVIII of 1939, s. 49 (1) (a).

⁶ The words "and village branches" were deleted, *ibid.*, s. 49 (1) (b).

⁷ These words were inserted, *ibid.*, s. 49 (1) (c).

⁸ These words were substituted for the words "District Judge", *ibid.*, s. 49 (2).

⁹ These words were substituted for the words, figures and brackets, "the District Judge in regard to suits under sub-section (1) of section 87", *ibid.*

¹⁰ Sub-sections (4) and (5) were substituted for the original sub-section (4) by Bom. XVIII of 1939, s. 49 (3).

(5) Subject to the general or special orders of the
 " ¹[State] Government the Collector may delegate to an
 officer not below the rank of ²[a Mamlatdar or Mahalkari]
 powers ³* * * exercisable by the Collector under
 this Act.]

113. It shall be the duty of every panchayat to inquire and report in any of the following cases :—

Local inquiry
and reports
by pancha-
yat.

V of 1898.

(a) any case where a magistrate has directed that a previous local investigation be made by a panchayat under section 202 of the Code of Criminal Procedure, 1898, and the words "such other person" in sub-section (1) of the said section shall be deemed to include a panchayat;

V of 1898.

(b) any case in which a magistrate making an inquiry under section 488 of the Code of Criminal Procedure, 1898, may require from the panchayat in whose village either the wife or child for whose maintenance the application is made or the husband or parent respectively of such wife or child resides, a report as to the amount of maintenance which, having regard to the circumstances of the parties, should be payable and such report shall be evidence in such inquiry:

Provided that no member of the panchayat shall be required to attend as a witness touching any matter on which the report is itself evidence, but the magistrate may, in his discretion, call for a further report.

114. Every member of a panchayat or ⁵[nyaya pancha- Members, etc., of
yat] and every officer and servant maintained by or employed
under a panchayat or ⁵[nyaya panchayat] shall be deemed to be
a public servant within the meaning of section 21 of
the Indian Penal Code.

XI.V of
1860.

Bom. IX of 1920. **115.** (1) The Bombay Village Panchayats Act, 1920, is hereby repealed : Provided that—

Repeal and
savings.

(a) such repeal shall not affect the liability of any person to pay any sum due from him under the said Act or the validity or invalidity of anything already done thereunder;

Bom. IX of 1920.

(b) all panchayats established under the Bombay Village Panchayats Act, 1920, and existing immediately before the coming into force of this Act shall be deemed to have been established under this Act;

¹ Sub. by the Adaptation of Laws Order, 1950.

² Sub. by s. 17 of Act XXXI of 1950.

³ The words and figure "other than the powers under section 4" were deleted by Bom. II of 1945, s. 8, read with Bom. LX of 1947, s. 2.

⁴ These words were substituted for the words "District Judge" by Bom. XVIII of 1939, s. 49 (2).

⁵ These words were substituted for "village bench" by Bom. LX of 1947, s. 25.

and the rights and liabilities of any such panchayats shall be vesting in and attached to the panchayat so deemed to have been established;

and any appointment, notification, notice, tax, order, permission, rule or bye-law made, issued or imposed in respect of any such panchayat under the Act so repealed shall, so far as is not inconsistent with the provisions of this Act, be deemed to have been made, issued or imposed under the provisions of this Act in respect of the panchayat so deemed to have been established under this Act, unless and until superseded by any appointment notification, notice, tax, order, permission, rule or bye-law made, issued or imposed under this Act.

(2) During such time as this Act and the rules and bye-laws shall be in operation in any village, the enactments mentioned in the Schedule shall, to the extent specified in the third column of the Schedule, cease to have any operation in the said village.

SCHEDULE

(See section 115)

No. and year of enactment	Subject or Title	Extent of repeal
Bombay Act VII of 1867	The Bombay District Police Act, 1867.	Sections 33 and 34.

¹[MADHYA PRADESH] PANCHAYATS ACT, 1946

¹[Madhya Pradesh] Act No. I of 1947

An Act to consolidate and amend the law relating to panchayats in villages in ¹[Madhya Pradesh].

WHEREAS it is expedient to consolidate and amend Preamble.
the law relating to panchayats in villages in ¹[Madhya Pradesh];

It is hereby enacted as follows :

CHAPTER I

PRELIMINARY

1. (1) This Act may be cited as ¹[Madhya Pradesh] Short title,
Panchayats Act, 1946. extent and
commence-
ment.

(2) It extends to the whole of ¹[Madhya Pradesh].

(3) It shall come into force on such date as the ¹[State]
Government may, by notification, direct.

XXXVIII of 1948. ²[On the establishment of a *Janapada Sabha* for any area under the provisions of the Central Provinces and Berar Local Government Act, 1948, the provisions of the said Act, shall, in relation to a Gram or Nyaya Panchayat functioning within such area, have effect as if—

Effect of Act
1948 on the
provisions of
Act I of 1947
in relation to
Gram or
Nyaya Pan-
chayat.

(a) for the expression “Chairman of the District Council”, “District Council”, “Council”, “District Council or its Chairman”, “District Council or the Local Board”, “District Council and the Local Board”, “District Council or Local Board or the Chairman of any District Council or Local Board”, or “District Council, Independent Local Boards or Local Boards”, the expression “*Janapada* authority” were substituted;] [*vide* s. (1) (a) of Act L of 1948].

2. (1) In this Act, unless there is anything repugnant Definitions.
in the subject or context,—

³[(i) ‘Adimjatiya Panchayat’ means an Adimjatiya Panchayat established under this Act;

(ia) “building” includes a hut, shed, house, shop, warehouse or workshop;]

(ii) “Gram Panchayat” means a Gram Panchayat established under this Act;

¹ Sub. by the Adaptation of Laws Order, 1950.

² Shall be omitted in respect of the areas where a *Janapada Sabha* is established under Act XXXVIII of 1948 [*vide* s.s. (1) (b) of Act I. of 1948].

³ Sub. and ins. by s. 2 of Act XVII of 1950.

- (iii) "Gram Panchayat area" means the area within the limits of which a Gram Panchayat has jurisdiction;
- (iv) "Nyaya Panchayat" means a Nyaya Panchayat established under this Act;
- (v) "Panch" means a member of a Panchayat other than a Sarpanch or Deputy Sarpanch;
- ¹[(va) 'Pargana Panchayat' means a Pargana Panchayat established under this Act;]
- (vi) "political offence" includes an offence which is committed with a political motive and the commission of which does not involve the use of any but technical force or violence to person or property;
- (vii) "prescribed" means prescribed by rules made under this Act;
- (viii) "road" means any road, street or passage whether a thoroughfare or not, over which the public have a right of way.

(2) In this Act, in its reference to ²[Madhya Pradesh] unless there is anything repugnant in the subject or context,—

- (a) the expressions "rent", "tenant" and "sub-tenant" shall have the meanings respectively assigned to them in the Central Provinces Tenancy Act, 1920; I of 1920.
- (b) the expressions "estate", "kamil-jama", "kotwar", "land-revenue", "maha", "malik-makbuza", "proprietor", "survey-number", "village" and "village watchman" shall have the meanings respectively assigned to them in the Central Provinces Land Revenue Act, 1917. II of 1917.

(3) In this Act, in its reference to Berar, unless there is anything repugnant in the subject or context, the expressions "alienated land", "holder", "jaglia", "land", "occupant", "rent", "superior holder", "survey-number", "tenant", "village", and "village mahar" shall have the meanings respectively assigned to them in the Berar Land Revenue Code, 1928.

Exercise of
District
Council's
powers.

³[3. Any power conferred by or under this Act on a District Council may be exercised in the area subject to the authority of an Independent Local Board by such Local Board, or in any area for which no District Council or Independent Local Board has been established, by the ²[State] Government.]

Delegation of
powers.

4. (1) The ²[State] Government may, by notification, delegate all or any of its powers under this Act, except the powers to make rules, to any authority which it thinks fit.

¹ Sub. and ins. by s. 2 of Act XVII of 1950.

² Sub. by the Adaptation of Laws Order, 1950.

³ Shall be omitted in respect of the areas where a *Janapada Sabha* is established under Act XXXVIII of 1948, vide s.s. (1) (b) of Act L of 1948.

(2) The Deputy Commissioner may, subject to rules made under this Act delegate to an Assistant Commissioner or Extra-Assistant Commissioner all or any of the powers conferred upon him by or under this Act.

¹[(3) The District Council may, subject to rules made under this Act and with the approval of the Provincial Government, delegate all or any of its powers under this Act to its Chairman.]

CHAPTER II

GRAM PANCHAYATS

5. (1) The ²[State] Government may, as it thinks fit, establish a Gram Panchayat for any village or group of villages, and shall establish a Gram Panchayat for every village having not less than one thousand inhabitants : Establishment of Gram Panchayat.

II of 1922.

Provided that a Gram Panchayat shall not be established for any local area to which the provisions of the Central Provinces and Berar Municipalities Act, 1922, apply.

(2) The Panchayat so established shall have jurisdiction within such limits as the ²[State] Government may order.

6. The ²[State] Government may divide a Gram Panchayat area into wards and, if no wards are created, a reference to a ward shall be deemed to be a reference to the area. Creation of wards.

7. The ²[State] Government may, by order, fix the total number of Panchas not being less than five or more than fifteen for any Gram Panchayat and the number of Panchas to be elected by each ward. Number of Panchas.

8. The Panchas of a Gram Panchayat shall, in accordance with rules made under this Act, be elected from amongst the persons whose names are entered on the electoral rolls of the Gram Panchayat area and shall, except as otherwise provided by this Act, hold office for a period of five years: Election of Panchas and their term of office.

Provided that where a Gram Panchayat is established for the first time such Panchas shall be appointed by the ²[State] Government and shall, except as otherwise provided by this Act, hold office for a period of ³[four years];

Provided further that notwithstanding anything contained in this section every Panch shall, unless the ²[State] Government otherwise directs, continue to hold office until his successor is duly elected or appointed and such election or appointment has been notified in the Gazette as provided in section 17.

¹ Shall be omitted in respect of the areas where a Janapada Sabha is established under Act XXXVIII of 1948 [vide s.s. (1) (b) of Act L of 1948].

² Sub. by the Adaptation of Laws Order, 1950.

³ Sub. by s. 2 of Act XXXIX of 1950.

Appointment
of panchas
on failure to
elect.

9. If on the date fixed for the election, the electors fail to elect the requisite number of Panchas, the ¹[State] Government shall appoint a person or persons to complete such number and any person so appointed shall be deemed to be a duly elected Panch.

Electoral
roll.

10. (1) An electoral roll shall be drawn up and published for each ward in the prescribed manner.

(2) Every application for or against the inclusion of any name in the roll shall be made in such manner and to such revenue officer as may be prescribed, and his decision shall be final.

(3) The roll as amended, if necessary, to accord with such decision shall remain in force for such period as may be prescribed.

(4) The validity or accuracy* of an electoral roll published in the prescribed manner shall not be called in question by means of a suit or otherwise in any court of law.

Qualifica-
tions of
electors.

11. (1) Every person who has attained the age of twenty-one years on the first day of January of the year in which the electoral roll of a ward is drawn up and who resides in such ward shall, subject to the provisions of this Act, be qualified as a voter for the purposes of this Act.

(2) No person shall be included in the electoral roll for or vote at, any election in a ward if such person—

- (a) ¹[is not a citizen of India;]
- (b) does not reside in such ward;
- (c) has been adjudged by a competent court to be of unsound mind;
- (d) is under twenty-one years of age ;
- (e) has under any law for the time being incurred disqualification for voting in an election to any local authority;
- (f) is in arrears for such period as may be prescribed of any tax, toll, fee or rate due by him to the Gram Panchayat;
- (g) has been found guilty of a corrupt practice:

Provided that in the case of a person who has been found guilty of a corrupt practice the disqualification shall cease immediately after the general election next ensuing.

Explanation.—For the purposes of this section a person shall be deemed to have acquired the qualification of residence if he dwelt in a house or part of a house in the ward, or Gram Panchayat area, as the case may be, for not less than one hundred and eighty days in the aggregate in the calendar year preceding that in which the electoral roll is drawn up.

¹ Sub. by the Adaptation of Laws Order, 1950.

12. If a person votes in more than one ward, all his votes shall be void. Exercise of votes in more than one ward.

13. For the purposes of this Act a person shall be deemed to have committed a corrupt practice who directly or indirectly by himself or by any other person— Corrupt practices.

- (a) induces or attempts to induce by fraud, intentional misrepresentation, coercion or threat of injury, any voter to give or to refrain from giving a vote in favour of any candidate;
- (b) with a view to inducing any voter to give or to refrain from giving a vote in favour of any candidate or in consideration of any voter having voted or refrained from voting for any candidate offers or gives any money or valuable consideration, or any place or employment or holds out any promise of individual advantage or profit to any person,
- (c) gives or procures the giving of a vote in the name of a voter who is not the person giving such vote;
- (d) commits abetment as defined in the Indian Penal Code of any act specified in clauses (a), (b) and (c).

XIV of
1860.

14. A person shall be disqualified for election, nomination or appointment as a Panch, Deputy Sarpanch or Sarpanch, if such person— Disqualifications of Panchas Deputy Sarpanch or Sarpanch.

- (a) ¹[is not a citizen of India;]
- (b) is in the service of the ¹[Government] or any local authority;
- (c) has been adjudged by a competent court to be of unsound mind;
- (d) is under twenty-five years of age;
- (e) has been dismissed from the service of the ¹[Government] or any local authority for misconduct and has been declared to be disqualified for employment in the public service;
- (f) has been sentenced by a criminal court, whether within or without ²[* * *] India, to imprisonment for an offence, other than a political offence, for a term exceeding six months, or to transportation, or has been ordered to find security for good behaviour under section 109 or section 110 of the Code of Criminal Procedure, 1898, such sentence or order not having subsequently been reversed or remitted, or the offender not having been pardoned;

V of 1898.

¹ Sub. by the Adaptation of Laws Order, 1950.

² Deleted by *ibid.*

- (g) has under any law for the time being in force become ineligible to be a member of any local authority;
- (h) holds any salaried office or place of profit in the gift or disposal of the Gram Panchayat;
- (i) has directly or indirectly any share or interest in any contract with, by or on behalf of the Gram Panchayat, while owning such share or interest;
- (j) is a leper;
- (k) is in arrears for such period as may be prescribed of any tax, toll, fee or rate due by him to the Gram Panchayat;
- (l) has been found guilty of a corrupt practice;
- (m) does not reside in the Gram Panchayat area and if his name is not included in the electoral roll of any ward of such area :

Provided that in cases (b), (e), (f), (h) and (i) the disqualification may be removed by a general or special order of the ¹[State] Government in this behalf :

Provided further that in the case of a person who has been found guilty of a corrupt practice the disqualification shall cease immediately after the general election next ensuing.

Explanation I.—A person shall not, by reason of being a shareholder in, or a member of any incorporated or registered company, be held to be interested in any contract entered into between the company and the Gram Panchayat.

Explanation II.—For the purposes of this section a person shall be deemed to have acquired the qualification of residence if he dwelt in a house or part of a house in the ward, or Gram Panchayat area, as the case may be, for not less than one hundred and eighty days in the aggregate in the calendar year preceding that in which the election is held or his election, nomination or appointment takes place.

Prohibition
against hold-
ing office in
more than
one Gram
Panchayat.

15. No person shall hold office in more than one Gram Panchayat.

Sarpanch
and Deputy
Sarpanch.

16. (1) Every Gram Panchayat shall have a Sarpanch who shall be elected by the electors in the Gram Panchayat area in accordance with rules made under this Act:

Provided that, where the Gram Panchayat is established for the first time, the Sarpanch shall be appointed by the ¹[State] Government.

(2) Every Gram Panchayat shall have a Deputy Sarpanch who shall be nominated by the Sarpanch and shall perform such duties as may be allotted to him by the Sarpanch.

¹ Sub. by the Adaptation of Laws Order, 1950.

(3) If the electors in the Gram Panchayat area fail to elect a Sarpanch in accordance with this section or the Sarpanch fails to nominate a Deputy Sarpanch, the ¹[State] Government shall appoint a person to the vacancy and the person so appointed shall be deemed to be a duly elected Sarpanch or duly nominated Deputy Sarpanch as the case may be.

(4) The Sarpanch and the Deputy Sarpanch shall in all cases be deemed to be members of the Gram Panchayat.

(5) The Sarpanch shall, unless he resigns or becomes disqualified under this Act, hold office for the term of office of the Gram Panchayat to which he may have been elected or appointed, or until the election or appointment of his successor shall have been notified.

(6) The Deputy Sarpanch shall, unless he resigns or becomes disqualified under this Act, hold office during the term of office of the Sarpanch who had nominated him.

17. Every election or appointment of a Panch and a Sarpanch and every nomination of a Deputy Sarpanch shall be ²[published by the Deputy Commissioner] in accordance with rules made under this Act and such persons shall enter on their respective offices from the date of ²[such publication].

Notification of election, appointment and nomination.

18. (1) A motion of no-confidence may be moved by any Panch of a Gram Panchayat after giving such notice as may be prescribed against the Sarpanch and, if the motion is carried by a majority of the Panchas present and voting, the Sarpanch shall, within three days of the passing of the motion, resign his office by submitting his resignation to the Deputy Commissioner and thereupon his office shall be deemed to be vacant.

Motion of no-confidence.

(2) If the Sarpanch against whom a motion of no-confidence has been carried, does not resign his office within period prescribed in sub-section (1) he shall be removed from his office by the Deputy Commissioner and may by an order of the ¹[State] Government be disqualified from being a Sarpanch, Deputy Sarpanch or Panch of a Gram Panchayat for a period of three years from the date on which the motion of no-confidence is carried against him.

(3) If the Sarpanch against whom a motion of no-confidence has been carried, resigns his office within the period prescribed in sub-section (1), he may, within seven days from the date of his resignation, apply in writing to the ¹[State] Government for the dissolution of the Gram Panchayat in which case the Panchayat shall be dissolved and a fresh election of the Panchayat and of the Sarpanch shall be ordered. If he fails to apply for the dissolution of the Panchayat or if he is removed from his office under sub-section (2) a fresh election of the Sarpanch shall be ordered.

¹ Sub. by the Adaptation of Laws Order, 1950.

² Sub. by s. 3 of Act XXXIX of 1950.

(4) The Sarpanch, with the previous approval of the Deputy Commissioner, may resign his office on the ground that the Panchas oppose him and may seek re-election, and if he is re-elected he may, within seven days from the date of his re-election, apply, in writing, to the ¹[State] Government for the dissolution of the Gram Panchayat in which case the Panchayat shall be dissolved and a fresh election of the Gram Panchayat shall be ordered, and he shall be deemed to be elected to the Gram Panchayat so constituted.

(5) On the dissolution of the Gram Panchayat under sub-section (3) or sub-section (4) the consequences specified in sub-section (2) of section 128 shall ensue.

(6) The provisions of this section shall not apply to a Sarpanch who is appointed by the ¹[State] Government under the proviso to sub-section (1) of section 16.

Temporary performance of duties of Sarpanch. **19.** If the office of the Sarpanch becomes vacant under this Act, all powers and duties of the Sarpanch may, until the election or appointment of his successor shall have been notified, be exercised and performed by such person as the Chairman of the District Council may appoint in that behalf.

Acceptance of resignations of Sarpanch, Deputy Sarpanch and Panch. **20.** No resignation tendered by the Sarpanch otherwise than under section 18 or by a Panch shall be valid until it has been accepted by the Deputy Commissioner and no resignation tendered by the Deputy Sarpanch shall be valid until it has been accepted by the Sarpanch.

Removal of any Sarpanch, Deputy Sarpanch or Panch. **²[20-A.]** Notwithstanding anything to the contrary in this Act, the State Government may remove for corruption, neglect of duty, continued absence from meetings, moral turpitude or any other sufficient cause, any sarpanch appointed under the proviso to sub-section (1) of section 16, any Deputy Sarpanch appointed by any such Sarpanch or any Panch appointed under the proviso to section 8 and appoint the successor to the person so removed.]

Effect of disqualification incurred after assuming. **21.** (1) Any Sarpanch, Deputy Sarpanch or Panch who, after his entry on office, becomes subject to any of the disqualifications specified in section 14, shall forthwith cease to hold his office and the fact of disqualification shall be published in such manner as may be prescribed.

(2) The District Council may at any time remove a Panch—

(a) if he refuses to act or becomes incapable of acting and if the Gram Panchayat recommends his removal by a majority of two-thirds of its members; or

(b) if his continuance in office is undesirable in the interests of the public or of the Gram Panchayat and if such Panchayat recommends his removal by a majority of two-thirds of its members.

¹ Sub. by the Adaptation of Laws Order, 1950.

² Ins. by s. 4 of Act XXXIX of 1950.

(3) The District Council shall remove a Panch if he absents himself from more than three consecutive meetings of the Gram Panchayat without obtaining the leave of the Sarpanch.

(4) Any removal from office under sub-section (2) or sub-section (3) shall disqualify the person so removed from holding the office from which he is removed for the period during which, but for such removal, he would have continued in office.

22. In the event of the death, disqualification, removal, or resignation of a Sarpanch, a new Sarpanch shall be elected to the vacancy and shall hold office for the remainder of the current term of the Gram Panchayat: Casual vacancy in office of Sarpanch.

Provided that if the vacancy occurs within three years of the first establishment of the Gram Panchayat the ¹[State] Government shall appoint a new Sarpanch for the remainder of that period.

23. Nothing done and no proceedings taken under the Act shall be questioned on account of any vacancy in any Gram Panchayat, or on account of any defect or irregularity not affecting the merits of the case. Validity of proceedings.

24. In the event of the death, disqualification, removal or resignation of a Panch, which shall be forthwith reported to the ¹[State] Government, an election to fill the vacancy shall be held in such manner as may be prescribed and the Panch so elected shall hold office for the remainder of the current term of the Gram Panchayat : Bye-elections.

Provided that if the vacancy occurs within a period of three years of the first establishment of the Gram Panchayat the ¹[State] Government shall appoint a new Panch for the remainder of that period.

25. (1) The Gram Panchayat shall appoint a Secretary who shall act under the general control of the Sarpanch and shall employ such other staff as may be necessary for carrying out the duties imposed on it by or under this Act. Appointment of Secretary and other staff.

(2) Matters relating to the appointment, duties, remuneration, leave, and discipline of the Secretary and the other staff shall be regulated by rules made under this Act.

(3) Notwithstanding anything in the preceding sub-section the Secretary first appointed to a Panchayat shall be a person appointed by the ¹[State] Government and shall hold office for the same term as the Panchayat to which he is appointed.

26. Every Gram Panchayat shall be a body corporate and shall have perpetual succession and a common seal and shall by its name sue and be sued. Subject to any rules made under this Act in this behalf, it shall also have power Incorporation of Gram Panchayat.

to acquire, hold or transfer property, movable and immovable, to enter into contracts and to do all other things necessary for the purposes of this Act.

Transfer of immovable property.

27. No immovable property vested in or belonging to a Gram Panchayat shall be transferred by sale, gift, mortgage or exchange or by lease for a period exceeding three years, or otherwise except with the sanction of the ¹[State] Government.

Mode of executing contracts.

28. Every contract made by or on behalf of a Gram Panchayat the value or amount of which exceeds fifty rupees shall be in writing and shall be signed by the Sarpanch and at least one Panch.

Appointment and powers of sub-committees.

29. (1) A Gram Panchayat may, for the discharge of its administrative functions, appoint from amongst its members, sub-committees, each consisting of not more than five members.

(2) A sub-committee shall exercise such powers as may be delegated to it by the Gram Panchayat and shall be subject to the general control of the Gram Panchayat.

Compulsory duties of Gram Panchayats.

30. Subject to such exceptions as the ¹[State] Government may, by special or general order, direct, a Gram Panchayat shall, within the area under its jurisdiction, undertake the control and administration of and be responsible for the following matters:—

- (i) sanitation and conservancy including the cleaning of village streets;
- (ii) medical relief and first-aid;
- (iii) the supply of water, and the periodical cleaning and disinfection of sources and storage of water supplied for drinking, bathing and washing purposes;
- (iv) the registration of births, deaths and marriages;
- (v) the making of complaints in respect of any contravention of the provisions contained in the Child Marriage Restraint Act, 1929;
- (vi) the maintenance and repairs of any building and property vested in it;
- (vii) the taking of measures to prevent the outbreaks spread or recurrence of any infectious disease;
- (viii) the construction and maintenance of roads in the village site; *
- (ix) the reporting of encroachments on roads and public places;
- (x) the making of crop experiments; and
- (xi) the filling in of disused wells, insanitary ponds, pools, ditches or pits.

XIX of 1929.

¹ Sub by the Adaptation of Laws Order, 1950.

31. Subject to such exceptions as the ¹[State] Government may make by general or special order a Gram Panchayat may, if a majority of its members so decide, and shall, if the ¹[State] Government so directs, undertake within the Gram Panchayat area the control and administration of, and be responsible for,—

Optional
duties of
Gram Pan-
chayats.

- (i) the construction and maintenance of slaughter-houses;
- (ii) the provision and maintenance of encamping-grounds;
- (iii) the relief of the destitute and the sick;
- (iv) the improvement of agriculture;
- (v) the promotion of co-operative farming;
- (vi) the improvement of cattle and their breeding and the general care of the live-stock;
- (vii) the establishment of granaries;
- (viii) the opening and maintenance of village libraries and reading-rooms;
- (ix) the promotion of agricultural credit and of measures to relieve rural indebtedness and poverty;
- (x) the planting of trees along roads in market places and other public places, and their maintenance and preservation;
- (xi) the promotion of social and moral welfare, including prohibition, the removal of untouchability, the eradication of corruption, and measures to discourage litigation and encourage arbitration;
- (xii) the laying-out and maintenance of play-grounds for village children, and of public gardens;
- (xiii) the promotion, improvement and encouragement of cottage industries;
- (xiv) the control and management of cattle-pounds and bazars;
- (xv) the establishment and maintenance of work or the provision of employment in times of scarcity;
- (xvi) the destruction of stray and ownerless dogs;
- (xvii) the regulating or abating of offensive or dangerous trades or practices;
- (xviii) the reclaiming of unhealthy localities;
- (xix) the spread of education;
- (xx) the rendering of assistance in the management of a *Vidya Mandir* and a *Madinat-ul-ilm*;
- (xxi) the extension of village sites and the regulation of buildings in accordance with such principles as may be prescribed;

¹ Sub. by the Adaptation of Laws Order, 1950.

- (xxii) the construction and maintenance of *sarais*, *dharamshalas*, and rest-houses;
- (xxiii) the management and control of *ghats*, public ferries, fairs, agricultural and industrial shows and public festivals which are not managed by any authority;
- (xxiv) the management of all communal lands;
- (xxv) the rendering of assistance to the residents when any natural calamity occurs;
- (xxvi) the reporting to the proper authorities village complaints which are not removable by the Gram Panchayat;
- (xxvii) the construction and maintenance of roads outside the village site and the construction and maintenance within the village site of public drains and the disposal of sullage;
- (xxviii) statistics of unemployment;
- (xxix) the opening, maintenance and regulation of burning *ghats* and burial grounds, and the setting apart of places outside the village site for the skinning and cutting up of carcasses;
- (xxx) the disposal of unclaimed corpses and carcasses and unclaimed cattle;
- (xxxi) the encouragement of human and animal vaccination;
- (xxxii) the establishment of maternity centres and child welfare centres;
- (xxxiii) regulating the keeping of pigs within the limits of the village site;
- (xxxiv) the construction and maintenance of public latrines;
- (xxxv) the establishment and maintenance of markets;
- (xxxvi) the lighting of village streets;
- ¹[(xxxvii) preparation of compost manure from night soil and rubbish;]
- ²[(xxxviii) the collection of the land revenue and other dues owing to the State:]

Provided that nothing in this section shall be deemed to impose any duty or confer any powers on a Gram Panchayat with respect to any matter under direct administrative control of any department of the ³[State] Government or the District Council unless the Government or the Council delegates such duty or power to the Gram Panchayat.

⁴[31-A. (1) Where in accordance with this Act, a Gram Panchayat undertakes the duty of the collection of land revenue and other dues owing to the State Government, the State Government may, by general or special

¹ Ins. by s. 5 of Act XXXIX of 1950.

² Ins. by s. 4 of Act XLI of 1950.

³ Sub. by the Adaptation of Laws Order, 1950.

⁴ Ins. by s. 5, of Act XLI of 1950.

11 of 1917.

order, direct that all or any duties imposed upon a *mukaddam* or *patel* under the Central Provinces Land Revenue Act, 1917, the Berar Land Revenue Code, 1928, the Berar Patels and Patwaris Law, 1900, or any other law for the time being in force dealing with the collection of land revenue or the management of villages in merged territories shall be discharged by such Gram Panchayat or the Sarpanch or the Deputy Sarpanch or the Secretary thereof as may be specified in such direction subject to such conditions and modifications if any as the State Government may deem fit to make in respect of the area within the jurisdiction of the Gram Panchayat.

(2) Any direction made under sub-section (1) shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act or in any instrument having effect by virtue of any enactment other than this Act.

(3) Where a direction is issued under sub-section (1) there shall be paid by the State Government to the Gram Panchayat specified in such direction such sum as may be determined by the State Government in respect of any extra cost of administration incurred by the Gram Panchayat in connection with the exercise of the duties imposed upon it by the direction.

(4) In so far as the Gram Panchayat is required to act under this section, it shall be under the general control of, and comply with, such particular directions, if any, as may from time to time be given to it by the State Government or any other authority appointed by the State Government in this behalf.]

32. Subject to rules made under this Act a Gram Panchayat may prohibit the slaughter for sale of animals at any place within the Gram Panchayat area other than a place appointed for the purpose by the Gram Panchayat. Regulation of slaughter of animals.

33. (1) On a complaint being made by any person that a vaccinator, revenue inspector, patwari, police constable, forest guard or peon has misconducted himself in his official capacity in the area under the control of a Gram Panchayat, the Gram Panchayat may inquire into the matter and report the result of its inquiry to the officer to whom such official is subordinate. Inquiry into conduct of certain officials.

(2) The Officer concerned shall enquire into the report in such manner and take such action thereon as he deems fit and shall inform the Gram Panchayat of the action taken.

(3) Nothing in sub-section (1) shall be construed as empowering the Gram Panchayat to summon the Officials specified in the said sub-section or to exercise control, disciplinary or otherwise, over them.

Joint works
of undertak-
ings.

34. (1) Subject to such restrictions as may be prescribed a Gram Panchayat may—

- (i) unite with any other body or bodies being a Gram Panchayat, local authority, institution or branch of an institution established for the development of Gram Panchayats and recognised by the ¹[State] Government—
 - (a) in works or undertakings which benefit the Gram Panchayat area and the areas under the jurisdiction of such other body or bodies;
 - (b) in appointing from among its members and the members of such other body or bodies a joint committee for any purpose of joint interest and in delegating to such committee any of its powers and in framing regulations for the proceedings of the committee;
- (ii) contribute funds to any work or institution from which the area under the Gram Panchayat benefits, although such work or institution is undertaken or maintained outside that area.

(2) Any dispute arising between such bodies shall be referred for decision to the ¹[State] Government or such officer as it may appoint in this behalf and such decision shall be final.

Power to
take over
management
of institutions
etc.

35. Subject to rules made under this Act a Gram Panchayat may, subject to conditions to be agreed upon in writing, consent to receive from any person, and take over, any property vested in him, or the management of any institution, or the execution or maintenance of any work, or the performance of any duty, within the area over which the Gram Panchayat has control :

Provided that no work costing more than two hundred and fifty rupees shall be entrusted to, or undertaken by a Gram Panchayat except with the previous approval of the District Council.

Gram
Panchayat
Fund.

36. (1) Every Gram Panchayat shall establish and maintain a Gram Panchayat Fund and into such fund shall be paid—

- (i) all sums made payable to the Gram Panchayat by or under this Act or any rule made thereunder,
- (ii) such portion of the profits made by the village granary, if any, as may be specified by the Gram Panchayat from time to time;
- (iii) income accruing from matters the control of which vests in the Gram Panchayat or which have been taken over by the Gram Panchayat by agreement as provided in this Act;

¹ Sub. by the Adaptation of Laws Order, 1950.

- (iv) income accruing from such other sources as the ¹[State] Government may from time to time determine; and
- (v) all sums contributed by the ¹[State] Government or any local body or any private person.
- (2) Subject to the provision of this Act and any rules made thereunder, such fund shall be applicable only—
 - (a) to the payment of charges and expenses incidental to the several matters under its control and administration; and
 - (b) in such proportion as may be prescribed to the payment of the expenses of the Nyaya Panchayat having jurisdiction in the Gram Panchayat area.

37. (1) The administration of the Gram Panchayat Fund shall, subject to the general control of the District Council, be in the hands of the Gram Panchayat. Administration of Fund.

(2) All moneys at the credit of the Gram Panchayat Fund shall be kept in the name of the Gram Panchayat in the nearest post office savings bank or co-operative bank, or, subject to such terms and conditions as may be prescribed, with a local bank or other person approved by the District Council.

38. No grant-in-aid shall be made out of the Gram Panchayat Fund for any purpose other than those specified in sections 30 and 31 to any person or institution except with the previous sanction of the District Council. Grant-in-aid from Fund.

39. A Gram Panchayat may, in accordance with rules made under this Act— Provident fund and gratuity for servants.

- (a) establish and maintain a provident fund or gratuity for the benefit of its servants, and
- (b) grant a gratuity to any servant subject to the previous approval of the District Council.

40. (1) In the Central Provinces, every proprietor of an estate, mahal or malik-makhuza plot and every holder of a survey number and every tenant other than a sub-tenant, shall be liable in respect of ²[the estate or part thereof, mahal or land] held by him in the Gram Panchayat area to pay a cess at the rate of six pies per rupee or part thereof on the land revenue or rent, as the case may be, or if the land revenue or rent or any portion thereof be released, compounded for or redeemed, on the kamil-jama of such estate, mahal, malik-makhuza plot or survey number or if the land is held rent-free or at reduced rent or on favourable conditions, on the rent fixed on such land.

¹ Sub. by the Adaptation of Laws Order, 1950.

² Sub. by s. 2 of Act XXIII of 1949 (retrospectively).

(2) In Bihar, a cess at the same rate shall be payable by persons holding land in the Gram Panchayat area as follows:—

- (i) in an unalienated village by the occupants or in the case of alienated land, by the holders thereof and shall be calculated on the total assessment of each survey number and where a survey number contains sub-divisions the total amount of the cess in respect thereof shall be distributed among the sub-divisions in accordance with rules made in this behalf by the ¹[State] Government;
- (ii) in a village in which the proprietary title has been conferred under the Waste Land Rules of 1865 by the proprietor and shall be calculated on the amount of fair assessment levied on the village;
- (iii) in any other alienated village by the superior holder and shall be calculated on the total of the determined assessments of all the survey numbers in the village;
- (iv) in an alienated village in which a tenant holds land from a superior holder by the tenant on the total amount of the rent payable by him.

(3) The cess under this section shall be payable in such manner as may be prescribed.

Compulsory
taxes.

41. (1) (2) Except as provided in clause (c) of this sub-section the Gram Panchayat shall impose a tax in respect of all buildings and non-agricultural lands within the Gram Panchayat area.

(b) Such tax shall be payable by the occupier and where there is no occupier by the owner.

(c) The ¹[State] Government shall prescribe the rate (or rates) of such tax and the method of assessment according to the value of building or land, and may prescribe a minimum value below which an assessment shall not be made.

(2) The Gram Panchayat shall require every person practising the calling of buyer, broker, commission agent, weigher, or measurer within the Gram Panchayat area to take out a licence so to practise and shall levy such fee therefor as may be prescribed.

(3) The Gram Panchayat shall impose a tax at such rate (or rates) as may be prescribed on persons practising any profession, trade or calling within the Gram Panchayat area.

Optional
taxes.

42. (1) With the approval of the District Council, and subject to rules made under this Act, a Gram Panchayat may, by a majority of two-thirds of its members, impose any of the following taxes, tolls, fees or rates :—

- (a) tolls on vehicles, pack-animals and porters bringing goods for sale into the Gram Panchayat area;

¹ Sub. by the Adaptation of Laws Order, 1950.

- (b) fees on persons exposing goods for sale in any market or place belonging to or under the control of the Gram Panchayat or for the use of any building or structure therein;
- (c) fees on the registration of animals sold in any market or place belonging to or under the control of the Gram Panchayat;
- (d) fees for the use of *sarais*, *dharamshalas*, rest-houses slaughter-houses and encamping-grounds;
- (e) a water-rate where water is supplied by the Gram Panchayat;
- (f) fee for cleansing private latrines payable by the owners or occupiers of the houses to which the private latrines are attached where such cleansing is done by the Gram Panchayat agency;
- (g) a tax payable by the owners of animals used for riding, driving, draught or burden or of dogs or pigs kept within the Gram Panchayat area;
- (h) a fee payable by the owners on vehicles where such vehicles are kept within the Gram Panchayat area;
- (i) a lighting rate where the lighting of public streets, places and buildings is undertaken by the Gram Panchayat;
- (j) a drainage fee where a system of drainage has been introduced by the Gram Panchayat;
- (k) any other tax, toll, fee or rate approved by the ¹[State] Government:

Provided that no tax, toll, fee or rate shall be imposed if such tax, toll, fee or rate has already been imposed by the District Council in the Gram Panchayat area.

Explanation.—The tolls imposed under clause (a) may vary according to the class of goods brought for sale.

(2) No objection shall be taken to any assessment nor shall the liability of any person to be assessed or taxed be questioned otherwise than in accordance with the provisions of this Act or of the rules made thereunder.

(3) Any tax, toll, fee, or rate imposed or levied under the provisions of this or section 41 shall be payable in such manner as may be prescribed.

43. Subject to the rules made under this Act a Gram Panchayat may exempt any person or class of persons from the payment of a tax, toll, fee or rate payable under this Act. Power to exempt persons from payment tax, etc.

44. (1) Subject to rules made under this Act a Gram Panchayat may, by order in writing, call upon persons resident in the Gram Panchayat area to perform such labour, as it may specify in the order, on works of public utility Impressment of labour.

¹ Sub. by the Adaptation of Laws Order, 1950.

which, in the opinion of the Gram Panchayat, are likely to benefit such persons and which the Gram Panchayat has undertaken to construct, maintain or repair under section 30 or section 31.

(2) A person required to perform labour under the provisions of sub-section (1) may have it performed by another on his behalf or pay for its performance at such rates as may be determined by the Gram Panchayat.

(3) Any person who, without sufficient cause, neglects or refuses to perform the labour referred to in sub-section (1) or does not get the labour performed or does not pay for the performance of the labour as provided in sub-section (2) shall be punishable with fine which may extend to ten rupees.

Appeal against taxation. **45.** Any person aggrieved by the imposition of any cess, tax, toll, fee or rate under this Act may appeal to the Deputy Commissioner in such manner and within such time as may be prescribed, and his decision shall be final.

Recovery of arrears. **46.** Any arrear of a cess, tax, toll, fee or rate imposed under this Act shall be recoverable by the Deputy Commissioner as if it were an arrear of land revenue.

Penalty for evasion. **47.** Any person evading the payment of any tax, toll, fee or rate shall be punishable with fine which may extend to ten rupees.

Writing off of taxes, etc. **48.** The Gram Panchayat may, subject to rules made under this Act, write off as irrecoverable sums due on account of any cess, tax, toll, fee or rate imposed under this Act or fine levied by it.

Power of District Council in the matter of taxation. **49.** (1) If, in the opinion of the District Council, the income of a Gram Panchayat is or is likely to be inadequate for the proper discharge of the duties imposed under section 30 or undertaken under section 31, the District Council may by an order in writing require the Gram Panchayat to take steps within six months of a date to be specified in the order to increase its income to such extent as the District Council considers necessary, and if the Gram Panchayat fails to comply with the order the District Council may, by a further order in writing require it to levy or increase any tax, toll, fee or rate specified in section 42, subject to such maximum as may be prescribed.

(2) A Gram Panchayat may within such time as may be prescribed appeal to the ¹[State] Government against an order made under sub-section (1) and pending such appeal the ¹[State] Government may stay the execution of the order, and shall, after obtaining a report from the District Council, pass such order as it thinks fit.

¹ Sub. by the Adaptation of Laws Order, 1950.

50. Any cess, tax, toll, fee or rate imposed under sections 40 and 42 may at any time be cancelled or thereafter re-imposed by the ¹[State] Government, and the ¹[State] Government may at any time suspend or thereafter re-impose the collection thereof : Cancellation or suspension of taxation.

Provided that no arrears shall be incurred while the collection is suspended.

51. Whoever voluntarily obstructs a Gram Panchayat or any Panch, officer or servant thereof or any person authorised by the Gram Panchayat in the exercise of any power under this Act shall be punishable with fine which may extend to fifty rupees. Penalty for obstruction.

52. (1) Every Gram Panchayat shall prepare annually in such form as may be prescribed a budget estimate of its receipts and expenditure for the ensuing financial year and shall submit the same within such time as may be prescribed to the District Council for sanction. The estimate so prepared shall provide for a closing balance of not less than one-sixth of the estimated normal income of the year. Preparation of budget.

(2) Every Gram Panchayat shall convene in such manner and at such time as may be prescribed a meeting of all adults residing in the area within its jurisdiction, at which the statements of the accounts of the Gram Panchayat together with a report on the administration for the preceding year and the programme of the work proposed for the year following shall be read out and explained.

(3) A brief record of the discussion, if any, at such meeting shall be forwarded to the Chairman of the District Council for information.

53. Any officer of the Public Works, Forest, Education, Agriculture, Medical and Public Health Departments whom the ¹[State] Government may, by general or special order, appoint in this behalf shall be entitled to attend any meeting of a Gram Panchayat and advise and assist it on any matter affecting the work of his department. Officers entitled to attend meetings of Gram Panchayats.

54. (1) A Gram Panchayat may, from time to time, make bye-laws consistent with this Act and with any rules made thereunder generally for carrying out all or any of the purposes of this Act. Bye-laws.

(2) In making a bye-law under sub-section (1) the Gram Panchayat may direct that a breach of it shall be punishable with fine which may extend to fifty rupees and, if the breach is a continuing breach, with further fine which may extend to five rupees for every day after the first during which the breach continues.

(3) The power conferred under this section to make bye-laws is subject to the condition of previous publication for such time and in such manner as the ¹[State] Government may determine and no bye-laws shall come into force until it has been confirmed by the ¹[State] Government.

¹ Sub. by the Adaptation of Laws Order, 1950.

Procedure for
cognizance
of offences.

55. The punishment for any act made punishable by section 47 may be imposed by a Gram Panchayat after observing such procedure as may be prescribed but no punishment for any act or omission made punishable by or under sub-section (3) of section 44, section 51, or sub-section (2) of section 54, shall be imposed save by a Nyaya Panchayat having jurisdiction and being moved in that behalf by complaint made on behalf of the Gram Panchayat in such manner and by such person as may be prescribed.

Composition
of offences.

56. (1) The ¹[State] Government may, subject to rules made under this Act, empower any Gram Panchayat or the Sarpanch, Deputy Sarpanch, any Panch, Officer or servant of such Panchayat to accept from any person in respect of whom there is reasonable ground to believe that he has committed any act or omission made punishable by or under this Chapter a sum of money by way of composition therefor.

(2) On payment of such sum the proceedings, if any, taken against such person in respect of the act or omission shall be dropped.

(3) Power under sub-section (1) to accept composition in respect of alleged acts and omissions may be given either generally or particularly in regard to specified acts and omissions or such as belong to a specified class.

Mode of
recovery of
fine.

57. Any fine imposed by or under this Chapter shall be recoverable by the Deputy Commissioner as an arrear of land revenue.

CHAPTER III

NYAYA PANCHAYATS

Nyaya Pan-
chayats.

58. (1) Subject to rules made under this Act, the ¹[State] Government shall establish Nyaya Panchayats for the administration of civil and criminal justice in such areas as it may by notification appoint :

Provided that no such area shall include any local area to which the provisions of the Central Provinces and Berar Municipalities Act, 1922, apply unless the ¹[State] Govern- II of 1922. ment orders that it be so included.

(2) Such Nyaya Panchayat shall be known by the name of the village in which it is established.

Composition
of Nyaya
Panchayats.

59. A Nyaya Panchayat shall consist of such number of Panchas not being less than five as may be fixed by the ¹[State] Government.

Selection of
Panchas.

60. (1) The Panchas of a Nyaya Panchayat shall be selected by the ¹[State] Government from amongst the ²[Members of the Gram Panchayat] established within the area over which the Nyaya Panchayat has jurisdiction.

(2) If a Panch of a Nyaya Panchayat dies or resigns, a new Panch shall be selected as provided in sub-section (1).

¹ Sub. by the Adaptation of Laws Order, 1950.

² Sub. by s. 2 of Act II of 1951.

61. A Panch of a Nyaya Panchayat shall not cease to hold office merely by reason of his ceasing to be a Panch of a Gram Panchayat.

Continuance of Panch in Nyaya Panchayat on cessation of office of Gram Panchayat.

62. (1) Every Nyaya Panchayat shall have a Chairman who shall be appointed by the ¹[State] Government from amongst the Panchas of such Panchayat.

Chairman and Deputy Chairman of Nyaya Panchayats.

(2) Every Nyaya Panchayat shall have a Deputy Chairman who shall be nominated by the Chairman from amongst the Panchas of the Nyaya Panchayat. The Deputy Chairman shall hold office for the term of the office of the Chairman who nominated him and shall perform such duties as may be allotted to him by the Chairman.

(3) If the Chairman or the Deputy Chairman dies, resigns or ceases to be a Panch of the Nyaya Panchayat, the vacancy shall be filled in in the manner provided in sub-section (1) or sub-section (2).

63. A person who is a Chairman, Deputy Chairman or Panch of a Nyaya Panchayat shall be ineligible for holding any of those offices in another Nyaya Panchayat.

Prohibition against being Chairman or Deputy Chairman of more than one Nyaya Panchayat.

64. (1) The ¹[State] Government may remove a Chairman, Deputy Chairman, or a Panch of a Nyaya Panchayat for corruption, neglect of duty, continued absence from meetings moral turpitude or any other sufficient cause and the ¹[State] Government or the Chairman, as the case may be, shall nominate or appoint the successor of the person removed.

Removal of Chairman, etc.

(2) The successors nominated or appointed shall hold office for the remaining period of the Nyaya Panchayat unless removed under the provisions of sub-section (1).

65. No resignation tendered by the Chairman or a Panch of a Nyaya Panchayat shall take effect until it has been accepted by the ¹[State] Government and no resignation tendered by the Deputy Chairman shall take effect until it has been accepted by the Chairman of the Nyaya Panchayat.

Validity of resignation.

66. (1) A Nyaya Panchayat shall hold office for a period of five years :

Term of office of Nyaya Panchayat.

Provided that where the Nyaya Panchayat is established for the first time it shall hold office for a period of three years.

(2) Notwithstanding anything in sub-section (1) a Nyaya Panchayat shall continue to hold office until a new Nyaya Panchayat has been duly constituted.

¹. Sub by the Adaptation of Laws Order, 1950.

Presiding officers of Nyaya Panchayat. **67.** (1) Every Nyaya Panchayat shall be presided over by the Chairman and in his absence by the Deputy Chairman. In the absence of both, the Nyaya Panchayat shall choose one of their members to preside.

Quorum. (2) For the disposal of any civil or criminal work, three Panchas shall constitute a quorum.

Civil and criminal jurisdiction. **68.** Notwithstanding anything contained in the Code of Criminal Procedure, 1898, or the Code of Civil Procedure, V of 1898, 1908, and subject to the provisions of this Act, a Nyaya Panchayat shall have jurisdiction concurrent with that of the criminal and civil courts within the local limits of whose jurisdiction the Nyaya Panchayat is situate for the ¹[trial of offences under this Act and of such other offences] as are specified in the Schedule and of such suits as are described in section 86.

Extent of criminal jurisdiction. **69.** (1) Subject to such exceptions as may be prescribed, a Nyaya Panchayat shall take cognizance of any offence and abetment of, or attempt to commit, ¹[any offence under this Act or any offence specified in the Schedule]:

Provided that—

- (i) no Nyaya Panchayat shall take cognizance of any case relating to ¹[an offence under this Act or an offence specified in the Schedule] in which either the complainant or the accused
 - (a) a public servant, as defined in section 21 of the Indian Penal Code other than a kotwar ^{XLV of 1860} or a village watchman or a jaglia or a village mahar, or
 - (b) a Panch of the Nyaya Panchayat, or
 - (c) a servant of the District Council having authority in the area in which the Nyaya Panchayat has jurisdiction other than a pound moharrir or a school teacher;
- (ii) no Nyaya Panchayat shall take cognizance of any offence except upon complaint written or oral and against the person named by the complainant :

Provided further that no Nyaya Panchayat shall take cognizance of any case in which the police have taken cognizance and have sent the accused to a magistrate under sub-section (1) of section 170 of the Code of Criminal Procedure, 1898.

V of 1898.

Explanation.—For the purposes of this section abetment ^{XLV of 1860} shall mean abetment as defined in the Indian Penal Code.

¹. Sub. by s. 6 of Act XXXIX of 1950.

(2) The ¹[State] Government may, on the recommendation of the District Council or otherwise, for reasons to be recorded in writing, withdraw from a Nyaya Panchayat the power to take cognizance of any or all of the offences specified in the Schedule.

(3) The ¹[State] Government may, on the recommendation of the District Council, or otherwise, by notification, empower a Nyaya Panchayat to take cognizance, subject to the restrictions in provisos (i) and (ii) of sub-section (1) of offences under sections 379, 380, 381, 411 and XLV of 1860. 426 of the Indian Penal Code where the value of the property concerned does not exceed one hundred rupees and abettments of or attempts to commit any such offence.

(4) Subject to the provisions of this Act the ¹[State] Government may, by modification, on the recommendation of the District Council, or otherwise, curtail or enlarge the criminal powers of a Nyaya Panchayat subject to such restrictions as may be prescribed:

Provided that a Nyaya Panchayat shall not be invested with powers higher than those exercisable by a Magistrate of the Second Class.

70. No Nyaya Panchayat shall take cognizance of any offence under sections 379, 380, 381 or 411 of the Indian Penal Code in which the accused— Bar of criminal jurisdiction in certain cases.

(a) has been previously convicted of an offence punishable under Chapter XII or Chapter XVII of the said Code with imprisonment of either description for a term of three years or upwards, or

(b) has been previously sentenced by any Nyaya Panchayat for theft or for dishonestly receiving stolen property, or

(c) has been bound over to be of good behaviour under section 110 of the Code of Criminal Procedure, 1898. V of 1898.

71. Every criminal complaint under this Act shall be instituted in the Nyaya Panchayat within whose jurisdiction the offence was committed. Place for making complaint.

72. If a complaint of any offence mentioned in the Schedule be made to a Magistrate, the Magistrate shall, subject to the provisions of section 73 and the rules made under this Act, instead of taking cognizance of the offence direct the complainant to present the complaint to the Nyaya Panchayat within whose jurisdiction the offence was committed. Transfer of complaint by Magistrates to Nyaya Panchayats.

73. No Nyaya Panchayat shall take cognizance of a criminal case after the expiry of one year from the date on which the offence was committed. Limitation for criminal cases.

Penalties.

74. The following are the maximum fines which may be inflicted by a Nyaya Panchayat in respect of offences, specified in the Schedule :

- (a) in respect of an offence under the Indian Penal Code not exceeding fifty rupees ;
- (b) in respect of offences under other Acts not exceeding fifty rupees subject to the maximum permissible under such Acts :

Provided that subject as aforesaid the ¹[State] Government may, by notification, increase the limit of fine of fifty rupees to one hundred rupees in respect of any Nyaya Panchayat.

Effect of sentence imposed by Nyaya Panchayat.

75. No sentence passed by a Nyaya Panchayat under this Act shall be deemed to be a previous conviction for the purposes of section 75 of the Indian Penal Code, or section 562 or 565 of the Code of Criminal Procedure, 1898. XLV of 1860
V of 1898.

Payment of cost and compensation to complainant.

76. When inflicting any fine under section 74, the Nyaya Panchayat may order any portion or the whole of the fine recovered to be applied to the payment of—

- (a) costs properly incurred in the criminal case by the complainant;
- (b) compensation not exceeding rupees fifty to the complainant for any material damage or loss caused by the offence committed.

Payment of compensation to accused.

77. If a Nyaya Panchayat is, after inquiry, satisfied that a criminal case brought before it was false and frivolous or vexatious such Nyaya Panchayat may order the complainant to pay to the accused such compensation, not exceeding rupees ten, as it thinks fit.

Payment of fines or compensation.

78. The amount of every fine imposed or compensation granted by a Nyaya Panchayat shall ordinarily be paid to the Nyaya Panchayat within fifteen days but the Nyaya Panchayat may in its discretion grant further time not exceeding thirty days thereafter.

Disposal of fines or compensation.

79. The amount of any fine or compensation received by the Nyaya Panchayat shall be entered in the prescribed register and the money so received dealt with by the Nyaya Panchayat in accordance with rules made under this Act.

Recovery of fines or compensation.

80. If any fine imposed or compensation granted by a Nyaya Panchayat is not paid within the time required by section 78, the Nyaya Panchayat shall certify accordingly to the Deputy Commissioner, who shall proceed to recover it as if it were an arrear of land revenue and shall remit it when so recovered to the Nyaya Panchayat.

¹. Sub. by the Adaptation of Laws Order, 1950.

81. (1) A Nyaya Panchayat may, instead of sentencing to fine a youthful offender, that is to say, an offender who was on the date of the commission of the offence not over fifteen years of age,—

(a) discharge him after due admonition, or

(b) require his father or guardian to execute within such time as the Nyaya Panchayat may fix, a bond, with or without sureties, for an amount not exceeding fifty rupees, binding himself to prevent such youthful offender from committing any of the offences referred to in the Schedule for any period not exceeding twelve months.

(2) The amount of such bond if forfeited shall be recoverable by the Nyaya Panchayat as if it were a fine imposed under this Chapter.

82. (1) When a Nyaya Panchayat convicts a person, other than a youthful offender referred to in section 81, against whom no previous conviction by a Nyaya Panchayat is proved it may, if it considers his release on probation of good conduct expedient, require him to execute within such time as it may appoint a bond for a sum not exceeding fifty rupees, with or without sureties, binding himself not to commit any offence referred to in the Schedule for a period not exceeding twelve months.

(2) The amount of such bond, if forfeited, shall be recoverable by the Nyaya Panchayat as if it were a fine imposed under this Chapter.

83. (1) No appeal shall lie from any judgment or order of a Nyaya Panchayat.

(2) Subject to the provisions of sub-section (3) every judgment or order of a Nyaya Panchayat shall be final.

(3) The Sessions Judge may call for and examine the record of any criminal case before any Nyaya Panchayat situate within the local limits of his jurisdiction for the purpose of satisfying himself as to the correctness, legality or propriety of any finding, sentence or order recorded or passed, and as to the regularity of any proceedings of such Nyaya Panchayat and may, when calling for such record, direct that the execution of any sentence be suspended. The Sessions Judge after examining the record may pass such order as he thinks fit and his order shall be final and no application for revision or review thereof shall lie.

(4) The Sessions Judge may, with the approval of the ¹[State] Government, confer on any Civil Judge having jurisdiction in the district the powers exercisable by him under sub-section (3).

¹ Sub. by the Adaptation of Laws Order, 1950.

Cancellation
of jurisdiction
in criminal
cases.

84. (1) The Sessions Judge may at any time for just and sufficient cause, cancel the jurisdiction of a Nyaya Panchayat with respect to any criminal case ¹[and may direct that while the question of such cancellation is under consideration this proceeding before the Nyaya Panchayat in that case shall be stayed.]

(2) The Sessions Judge may with the approval of the ²[State] Government, confer on any Civil Judge having jurisdiction in the district the powers exercisable by him under sub-section (1).

Effect of such
order.

85. (1) An order under sub-section (1) of section 84 shall operate to restore the jurisdiction of such criminal court as would have exercised jurisdiction if this Act had not been passed.

(2) No order under sub-section (1) of section 84 shall affect the period of limitation specified in section 73 :

Provided that in computing such period the time during which the complainant has been prosecuting his case before the Nyaya Panchayat with due diligence shall be excluded.

Extent of
civil jurisdic-
tion.

86. (1) The following suits shall be cognizable by a Nyaya Panchayat :

- (i) suits for ascertained sums not exceeding one hundred rupees;
- (ii) suits for damages not exceeding one hundred rupees for breach of contract not affecting immovable property;
- (iii) suits for specific movable property or for the value thereof not exceeding one hundred rupees; and
- (iv) suits for compensation for wrongly taking or injuring movable property not exceeding one hundred rupees in value :

Provided that no Nyaya Panchayat shall take cognizance of any suit—

- (i) on a balance of partnership account;
- (ii) for a share or part of a share under an intestacy or for a legacy or part of a legacy under a will;
- (iii) by or against the ²[Government] or public officer in his official capacity or by or against any Panch of the Nyaya Panchayat;
- (iv) by or against minors or persons of unsound mind;
- (v) ³[relating to any dispute or matter in respect of which the jurisdiction of a Civil Court is barred under any law for the time being in force.]

¹. Ins. by s. 8 of Act XXXIX of 1950.

². Sub. by the Adaptation of Laws Order, 1950.

³. Sub. by s. 2 of Act XXX of 1947.

(2) The ¹[State] Government may, by notification, direct that any Nyaya Panchayat may try any suit of the nature described in sub-section (1) up to such value, not exceeding five hundred rupees as may be specified in the notification.

(3) With the written consent of both parties recorded in the presence of the Nyaya Panchayat, suits of the nature described in sub-section (1), but the value of which does not exceed five hundred rupees, shall be triable by such Nyaya Panchayat.

(4) The ¹[State] Government may, on the recommendation of the District Council or otherwise, for reasons to be recorded in writing, withdraw from a Nyaya Panchayat the power to take cognizance of all or any of the classes of suits, made cognizable by the Nyaya Panchayat by sub-section (1).

87. (1) Every suit instituted in a Nyaya Panchayat shall include the whole of the claim which the plaintiff is entitled to make in respect of the cause of action, but he may relinquish any portion of his claim in order to bring the suit within the jurisdiction of the Nyaya Panchayat. Suit to include whole claim.

(2) If a plaintiff omits to sue in respect of, or intentionally relinquishes, any portion of his claims, he shall be precluded from bringing any separate action whether before a civil court or a Nyaya Panchayat for, or in respect of, the portion so omitted or relinquished.

88. Every suit under this Act shall be instituted before a Nyaya Panchayat within whose jurisdiction the defendant or any defendant in the suit resides at the time of the institution of the suit. Place of institution.

89. If a plaint of a civil suit of the kind described in section 86 is presented in a civil court the judge presiding in that court shall return the plaint for being presented in the Nyaya Panchayat which has jurisdiction to try the suit. Return of plaint by civil court to Nyaya Panchayat.

90. No civil court shall take cognizance of any suit which is cognizable under this Act by a Nyaya Panchayat unless the Nyaya Panchayat has passed an order in writing under section 104 or unless the District Judge has passed an order in writing under section 102. Exclusive jurisdiction in suits.

91. No Nyaya Panchayat shall take cognizance of a civil suit after the expiry of three years from the date on which the right to sue accrued : Limitation for civil cases.

IX of 1908. Provided that where a period shorter than that specified in this section is prescribed in the Indian Limitation Act, 1908, for any civil suit described in section 86, no Nyaya Panchayat shall take cognizance of such suit after the expiry of the period prescribed for such suit in that Act.

¹ Sub. by the Adaptation of Laws Order, 1950.

Bar of civil jurisdiction in certain cases.

92. No Nyaya Panchayat shall try any suit or issue in respect of any matter directly, and substantially in dispute which is pending in, or has been heard and finally decided by a Nyaya Panchayat or a court of competent jurisdiction in a former suit between the same parties or those under whom they claim and may suspend hearing or dismiss the suit accordingly.

Interest and instalments.

93. (1) In suits for money the Nyaya Panchayat may decree interest on the amount decreed at a rate not exceeding one anna per rupee *per annum* from the date of decree till the date of payment.

(2) Where the decree is for payment of money, the Nyaya Panchayat may in passing the decree direct that the payment of the amount decreed be postponed or be made by instalments.

Compensatory cost to defendant.

94. If any Nyaya Panchayat is, after inquiry, satisfied that a suit brought before it was false and frivolous or vexatious, such Nyaya Panchayat may order the plaintiff to pay to the defendant such costs, not exceeding ten rupees, as it thinks fit, by way of compensation.

Payment of decree to be recorded.

95. If on the application of the decree-holder or the judgment-debtor the Nyaya Panchayat after inquiry finds that the decree has been satisfied wholly or in part, the Nyaya Panchayat shall record the fact in the prescribed register.

Execution of decree through civil court.

96. (1) If a decree remains unsatisfied in whole or part for one month after the date appointed for payment in full and the decree-holder applies to the Nyaya Panchayat for execution within one year from such date, the Nyaya Panchayat shall, after sending for the judgment-debtor and ascertaining that the decree cannot be satisfied otherwise, and on recovery of the prescribed fee, certify accordingly and send the application and certificate with a copy of the decree to such civil court as would have had jurisdiction if this Act had not been passed.

(2) On receipt of the papers referred to in sub-section (1) the civil court shall execute the decree as if it were a decree passed by it.

Explanation.— In this section “decree-holder” and “judgment-debtor” include a representative in interest.

Power to summon witnesses and do other acts for disposal of cases.

97. (1) In disposing of cases instituted under this Act or references made under section 114 or section 115, a Nyaya Panchayat shall subject to rules made under this Act, have power to issue summons, to require the attendance of any person either to give evidence or to produce any document or to enter upon any land or to do such other act as it may consider necessary for the proper disposal of such cases or references.

(2) A summons issued under sub-section (1) shall be signed by one of the Panchas of the Nyaya Panchayat and shall be served in the manner provided in rules made under this Act.

(3) Any person receiving a summons or other process under sub-section (1) shall be bound to comply with the same.

98. A Nyaya Panchayat shall have power subject to rules made under this Act to issue notice to the defendant or accused in any civil or criminal case instituted before it requiring him to attend at the time and place of hearing fixed and may require him to attend with his witnesses.

99. (1) If after the service of the notice provided for in section 98 the accused in a criminal case fails to attend and the majority of the Nyaya Panchayat trying the case is of opinion that he is evading attendance, the Nyaya Panchayat may apply to the Deputy Commissioner who may compel his appearance before the Nyaya Panchayat as if the Deputy Commissioner were a Magistrate trying the case and the Nyaya Panchayat were his court.

(2) When any accused person has been under sub-section (1) compelled to appear before a Nyaya Panchayat it shall forthwith take his statement, and thereafter his attendance shall not be deemed to be compulsory.

(3) If on the date fixed for the hearing of a criminal case or on any other date to which the hearing may be adjourned the complainant fails to attend, the Nyaya Panchayat may either proceed to hear the case or decide it in his absence.

100. (1) If after the service of the notice provided for in section 98 the defendant in a suit fails to attend and a majority of the Nyaya Panchayat trying the suit is of opinion that he is evading attendance the Nyaya Panchayat may either proceed to try the suit or decide it *ex parte* against him:

Provided that any defendant against whom a suit has been decided *ex parte* may within thirty days from the date of such decision, apply orally or in writing to the Nyaya Panchayat to set aside the order and the Nyaya Panchayat shall, if it is satisfied that the defendant did not receive due notice of the date of hearing or was prevented for any sufficient cause from appearing, set it aside and shall appoint a date for proceeding with the suit.

(2) If on the date fixed for the hearing of a suit or on any other date to which the hearing may be adjourned the plaintiff fails to attend, the Nyaya Panchayat may either proceed to try the suit or decide it in his absence :

Provided that if on the failure of the plaintiff to attend, a suit is dismissed or decided, the Nyaya Panchayat may re-open it if within thirty days from the date of such dismissal or decision the plaintiff satisfies it that he was prevented by sufficient cause from appearing.

101. (1) No appeal shall lie from any decree or order of a Nyaya Panchayat.

(2) Subject to the provisions of sub-section (3) every decision of a Nyaya Panchayat shall be final.

(3) The District Judge may call for the record of any civil case which has been decided by a Nyaya Panchayat situate within the local limits of his jurisdiction, and if such Nyaya Panchayat appears—

- (a) to have exercised a jurisdiction not vested in it by law, or
- (b) to have failed to exercise a jurisdiction so vested, or
- (c) to have acted in the exercise of its jurisdiction illegally or with material irregularity,

the District Judge may make such order in the case as he thinks fit and his order shall be final, no application for revision or review thereof shall lie.

(4) The District Judge may, with the approval of the ¹[State] Government confer on any Civil Judge having jurisdiction in the district the powers exercisable by him under sub-section (3).

Cancellation of jurisdiction in civil cases. **102.** (1) The District Judge may, at any time for just and sufficient cause, cancel the jurisdiction of a Nyaya Panchayat with respect to any civil case ²{and may direct that while the question of such cancellation is under consideration the proceeding before the Nyaya Panchayat in that case shall be stayed}.

(2) The District Judge may with the approval of the State Government, confer on any Civil Judge having jurisdiction in the district powers exercisable by him under sub-section (1)

Effect of such order. **103.** (1) An order under sub-section (1) of section 102 shall operate to restore the jurisdiction of such civil courts as would have exercised jurisdiction if this Act had not been passed.

(2) No order under sub-section (1) of section 102 shall operate to impose any period of limitation other than that imposed by section 91 :

Provided that for the purposes of section 14 of the Indian Limitation Act, 1908, a Nyaya Panchayat shall be deemed to be a court and an order under section 102 a cause of like nature with defect of jurisdiction. **IX of 1908.**

Cases how instituted. ³**[103-A.** Any person who wishes to institute a civil or criminal case triable under this Act by a Nyaya Panchayat shall make an application orally or in writing to the Chairman, or in his absence to any Panch of the Nyaya Panchayat, and shall at the same time pay the prescribed fee.]

Transfer of certain cases to regular courts. **104.** If any Nyaya Panchayat is of opinion that any civil or criminal case before it is of such a nature, or of such intricacy or importance, that it ought to be tried by a regular court, or, that an accused in a criminal case or a witness in

¹ Sub. by the Adaptation of Laws Order, 1950.

² Ins. b, Sec. 9 of Act XXXIX of 1950.

³ Ins. by Sec. 2 of Act L of 1948.

any case, resides at such a distance or will meet with such difficulties in travelling that he should not be called upon to appear before it, the Nyaya Panchayat may send the case to the District Judge or to the District Magistrate, as the case may be, who shall transfer it to the nearest regular court of competent jurisdiction for trial.

105. Notwithstanding anything contained in any Summary other enactment for the time being in force, the Nyaya Panchayat shall, in the trial of criminal cases or civil suits, follow such summary procedure as may be prescribed.

106. It shall be the duty of the Nyaya Panchayat to ascertain the facts of every case by every lawful means in its power and thereafter to make such decree or order with or without costs as may be just, equitable and according to good conscience.

107. A Nyaya Panchayat shall decide any civil or criminal case which it is competent to try in accordance with any settlement, compromise or oath freely agreed to by the parties.

108. Decision shall, in the event of the members of the Nyaya Panchayat disagreeing, be in accordance with the opinion of the majority, and, if opinions be equally divided, the presiding officer shall have a casting vote.

109. Subject to the provisions of this Act, a Nyaya Panchayat shall have no power to cancel, revise or alter any decree or final order passed by it whether *ex parte* or otherwise :

Provided that clerical or arithmetical mistakes in judgments, decrees or orders or errors arising therein from any accidental slip or omission may at any time be corrected by the Nyaya Panchayat either of its own motion or on the application of any of the parties.

110. No Panch who is personally interested in any civil or criminal case shall sit in the Nyaya Panchayat which takes cognizance of such case.

111. (1) No legal practitioner shall appear on behalf of any party in any proceedings before a Nyaya Panchayat.

(2) The parties to a criminal case triable by a Nyaya Panchayat shall appear personally before it provided that the Nyaya Panchayat may in any case dispense with the personal attendance of an accused and permit him to appear by agent.

The parties to a civil suit triable by a Nyaya Panchayat may appear by agents.

Explanation.—"Agent" in sub-sections (2) and (3) means a person authorised in writing to appear and plead for the party he represents, and recognised by the Nyaya Panchayat as fitted to be a representative, and shall be a relative, partner, or full-time servant of such party.

Exemption
from personal
appearance.

112. No woman who is not accustomed to appear in the public and no person who from illness or physical inability is unable to attend in person be compelled to appear in person before a Nyaya Panchayat. The Nyaya Panchayat may, in case the presence of such person is dispensed with, record his statement at the place of his residence on payment of prescribed fees.

Power to
inspect land
for disposal
of cases.

113. A Nyaya Panchayat or any Panch thereof duly authorised in that behalf may, for ascertaining facts conducive to the proper disposal of a case or reference, enter upon any land at any time between sunrise and sunset after giving twenty four hours' notice to the occupier or when there is no occupier, to the owner of such land. If the land is in the occupation of persons who according to the custom of the country do not appear in the public, due notice shall be given to them to withdraw.

Local investi-
gation and
report to be
made by
Nyaya Pan-
chayats.

114. (1) Any Nyaya Panchayat may be directed to make a local investigation under section 202 of the Code of Criminal Procedure, 1898.

(2) Any Magistrate making an inquiry under section 488 of the Code of Criminal Procedure, 1898, may require from the Nyaya Panchayat in whose Circle the wife, child, husband or parent resides a report as to the amount of maintenance, which, having regard to the circumstances of the parties, should be made payable, and such report shall be evidence in such inquiry. V of 1898.

(3) No Member of a Nyaya Panchayat shall be required to attend as a witness touching any matter on which the report is itself evidence, but the Magistrate may call for a further report.

Power of
Civil Court
to call for a
report.

115. (1) Any civil court may, in a pending case, require a Nyaya Panchayat to report on profits or damage in respect of, and boundaries between, lands situated within the local limits of the jurisdiction of the Panchayat, and on the rates of maintenance considered within such local limits to accord with a given status or income.

(2) Such report shall be evidence in such case.

(3) No member of a Nyaya Panchayat shall be required to attend as a witness touching any matter on which the report is itself evidence, but the civil court may call for a further report.

Staff of
Nyaya Pan-
chayats.

116. The ¹[State] Government may fix the number of clerical and other staff to be employed by a Nyaya Panchayat and regulate the conditions of their service by rules made under this Act.

Power to
instruct
Nyaya Pan-
chayats.

117. (1) The ¹[State] Government may authorise any officer or class of officers to inspect Nyaya Panchayats and instruct them in the performance of their duties.

¹ Sub. by the Adaptation of Laws Order, 1950.

(2) The ¹[State] Government shall prescribe the channel through which and the authority to whom the reports of such inspections shall be submitted.

118. Whenever a Nyaya Panchayat is established or disestablished or there is a change in the limits of its jurisdiction, powers, or name, the District Council shall proclaim the fact ²[through the Local Board] and inform the Deputy Commissioner, the District and Sessions Judge, the District Superintendent of Police and the Director of Panchayats. Establishment, disestablishment etc., of Nyaya Panchayats to be made known.

119. Every Nyaya Panchayat shall have a seal bearing its name, the name of the tahsil and district in which it is established, and shall therewith seal all decrees, orders, proceedings, processes, receipts and copies issued by it. Seal of Nyaya Panchayats.

CHAPTER IV

CONTROL

²[**120.** (1) Subject to rules made under this Act, a District Council having authority in a Circle shall exercise general powers of inspection supervision and control over the performance of the administrative duties of the Gram Panchayat, and may, by a majority of two-thirds of its members present and voting, reverse or vary any order or resolution passed by the Gram Panchayat in the performance of those duties. District Council's power of control over Gram Panchayats.

(2) The District Council may delegate all or any of its powers under sub-section (1) to the Local Board having authority in the Circle.]

121. (1) The District Council ³[shall with the previous approval of the ¹[State] Government or any officer authorised by it on this behalf employ] Inspectors trained in accordance with rules made under this Act for the purpose of inspection and instruction of Gram and Nyaya Panchayats. Inspectors of Gram and Nyaya Panchayats.

(2) No such Inspector shall inspect the records of cases disposed of by or pending before a Nyaya Panchayat.

(3) The ¹[State] Government shall subject to rule made under this Act, provide for the periodical auditing of the accounts of Gram and Nyaya Panchayats.

122. The ¹[State] Government may, for the purposes of this Act, appoint a Director of Panchayats and one or more Deputy Directors of Panchayats and may, by notification, delegate to such Director or Deputy Director, any of its powers, or any of the powers of the District Council or its Chairman. Appointment of Director and Deputy Directors of Panchayats.

¹ Sub. by the Adaptation of Laws Order, 1950.

² Shall be omitted in the areas where a *Janapada Sabha* is established under Act XXXVII of 1948 [vide s. 5 (1) of Act L of 1948].

³ Sub. by s. 3 of Act L of 1948.

General power of inspection of work of all Panchayats. **123.** (1) Any office-bearer or officer of the District Council or the Local Board, the Director or Deputy Director of Panchayats or a Revenue Officer not below the rank of a Naib-Tahsildar or such other officer as the ¹[State] Government may, by notification, empower in this behalf, may inspect the proceedings of Gram Panchayats.

(2) Any such office-bearer and officer may—

- (a) enter on and inspect any immovable property occupied by a Gram Panchayat, or any work in progress under its direction;
- (b) call for and inspect any document which may be, for the purpose of this Act, in the possession or under the control of a Gram Panchayat;
- (c) require a Gram Panchayat to furnish such statements, accounts and reports as he may think fit.

(3) A report of his inspection shall be submitted by such office-bearer or officer to such authority as may be prescribed.

Visitors.

124. The following shall be visitors of every Gram Panchayat :—

- (i) all members of ¹[Madhya Pradesh] Legislative Assembly residing in the district in which the Panchayat is situate,
- (ii) such non-officials as may be appointed by the ¹[State] Government,
- (iii) such non-officials as may be appointed by the District Council and the Local Board within whose jurisdiction the Gram Panchayat is situate.

Provision for performance of duties in default of Gram Panchayats. **125.** (1) If any Gram Panchayat makes default in the performance of any duty imposed on it by or under this Act the District Council may, by an order in writing, fix a period for the performance thereof, and in case of default in performance within the period so fixed, may appoint any person to perform it and may direct that the expenses arising from and incidental to its performance shall forthwith be paid by the Gram Panchayat.

(2) If such expenses are not so paid, the District Council may make an order directing the person having the custody of the balance of the Gram Panchayat fund to make the payment either in whole or in part as is possible from such balance.

Provision for performance of duties in default of District Council, etc. **126.** (1) If any District Council or Local Board or the Chairman of any District Council or Local Board makes default in the performance of any duty imposed on it or him by or under this Act the ¹[State] Government may, by an order in writing fix a period for the performance thereof, and, in case of default in performance within the period

¹ Sub. by the Adaptation of Laws Order, 1950.

so fixed, may appoint any person to perform it and may direct that the expenses arising from and incidental to its performance shall forthwith be paid by the District Council.

(2) If such expenses are not so paid, the ¹[State] Government may make an order directing the person having the custody of the balance of the ²[district fund] to make the payment either in whole or in part as is possible from such balance.

127. (1) The ¹[State] Government may, at any time, ^{Dissolution of} on the recommendation of the District Council or other- ^{of Nyaya} wise, dissolve any Nyaya Panchayat for misconduct, in- ^{Panchayats.} capacity, persistent neglect of duty or other just and sufficient cause.

(2) Until a new Nyaya Panchayat is constituted, the functions of the Nyaya Panchayat dissolved shall be performed by such other Nyaya Panchayat as may be authorised by the ¹[State] Government in that behalf.

128. (1) The ¹[State] Government may, at any time, ^{Dissolution of} on the recommendation of the Deputy Commissioner, ^{Gram Pan-} District Council or otherwise, dissolve any Gram Panchayat ^{chayats.} for incapacity, persistent neglect of duty or grave excesses or abuse of its powers and may order a fresh election to take place, and if after such election the new Gram Panchayat is incompetent to perform or persistently neglects its duty, makes default in the performance of such duties or exceeds or abuses its powers to a grave extent, the ¹[State] Government shall dissolve the Gram Panchayat again and shall constitute a new Panchayat for such period as it may deem fit by nominating Panchas thereof.

(2) Until a new Panchayat is constituted either by re-election or by nomination, as the case may be, all functions of the Gram Panchayat so dissolved shall be performed by the District Council and all the property under the control of the Gram Panchayat including the Gram Panchayat fund shall be at the disposal of the district Council until the election or nomination of a new Gram Panchayat.

129. (1) The ¹[State] Government may transfer any ^{Transfer of} part of the area over which a Gram Panchayat has juris- ^{area from} diction to the jurisdiction of any other Gram Panchayat and ^{one to an-} on such transfer such Gram Panchayat shall exercise juris- ^{other Gram} diction in the area so transferred. ^{Panchayat.}

(2) When any part of the area is transferred under subsection (1), the ¹[State] Government shall place at the disposal of the Gram Panchayat to whose jurisdiction that part has been transferred such portion of the property and Fund, as it may deem fit, of the Gram Panchayat from whose jurisdiction the part has been transferred.

¹ Sub. by the Adaptation of Laws Order, 1950.

² The words, 'Janapada fund' shall be substituted for 'district fund' in respect of areas where a Janapada Sabha has been established under Act XXXVIII of 1948 [vide s. 5 (1) (c) of Act L of 1948]

Exclusion from, or inclusion in, Gram Panchayat area. **130.** The ¹[State] Government may, at any time for just and sufficient cause, direct that any area may be excluded from, or included in, the Gram Panchayat area and may make such consequential orders as it deems fit.

Allotment of fund and property in respect of area included in municipality or notified area. **131.** If an area for which a Gram Panchayat has been established or any area which has been excluded under section 130 is afterwards included in a municipality or a notified area constituted under the Central Provinces and Berar Municipalities Act, 1922, the ¹[State] Government shall place at the disposal of the Municipal Committee or Notified Area Committee, as the case may be, the whole or such portion of the property and fund of the Gram Panchayat as it may deem fit. II of 1922.

General powers of control. **132.** In all matters connected with this Act, unless it is otherwise provided in this Act, or in the rules made thereunder, Commissioners, Deputy Commissioners, District Councils, Independent Local Boards and Local Boards shall be subject to the same authority and control as is exercised over them in matters connected with the Acts creating them or their office.

CHAPTER V

MISCELLANEOUS

Public servants. **133.** Every ²[Member] of a Gram or Nyaya Panchayat and Secretary of a Gram Panchayat shall be deemed to be a public servant as defined in section 21 of the Indian Penal Code. XLV of 1860.

Bar of civil suit for things done in good faith. **134.** No suit shall be maintainable against any Gram or Nyaya Panchayat, or any ²[Member], officer or servant thereof, or any person acting under the direction of any such Gram or Nyaya Panchayat, ²[Member], officer or servant, in respect of anything lawfully and honestly and with due care and attention done under this Act or any rule or bye-law made thereunder.

Previous notice when suit to be filed. **135.** (1) No suit shall be instituted against any Gram or Nyaya Panchayat or any ²[Member], officer or servant thereof, or any person acting under the direction of any such Gram or Nyaya Panchayat, ²[Member], officer or servant for anything done or purporting to be done under this Act, until the expiration of two months next after notice in writing, stating the cause of action, the name and place of abode of the intending plaintiff and the relief which he claims has been, in the case of a Gram or Nyaya Panchayat delivered or left at its office, and, in the case of any such ²[Member], officer, servant or person as aforesaid, delivered to him or left at his office or usual place of abode; and the plaint shall contain a statement that such notice has been so delivered or left.

¹ Sub. by the Adaptation of Laws Order, 1950.

² Sub. by s. 3 of Act II of 1951.

(2) Every such suit shall be dismissed unless it is instituted within six months from the date of the accrual of the alleged cause of action. Limitation of such suit.

I of 1877. (3) Nothing in this section shall be deemed to apply to any suit instituted under section 54 of the Specific Relief Act, 1877.

¹[136. A dispute between Gram Panchayats subordinate to the same District Council shall be referred to the District Council, and a dispute between Gram Panchayats not subordinate to the same District Council or between a Gram Panchayat and a Municipal Committee or Notified Area Committee shall be referred to the ²[State] Government, and the decision of the District Council or the ²[State] Government, as the case may be, shall be final.] Disputes with other bodies.

137. (1) If any ³[Member] of a Gram Panchayat without the previous sanction of the District Council or if any officer or servant of such Panchayat participates or agrees to participate in the profits of any work done by the Panchayat or is concerned or participates in the profits of any contract entered into with the Panchayat, he shall be liable, on conviction, to fine which may extend to one hundred rupees. Panchas, officers and servants to refrain from joining in certain contracts.

(2) The provisions of sub-section (1) shall not apply to a person—

- (a) having a share in any joint stock company which contracts with or is employed by or on behalf of the Panchayat;
- (b) having a share or interest in any newspaper in which any advertisements relating to the affairs of the Panchayat may be inserted;
- (c) having an interest in any loan raised by or on behalf of the Panchayat;
- (d) being a member of a society registered under the Co-operative Societies Act, 1912, which enters into any contract with the Panchayat :

II of 1912.

¹ In respect of the areas where a *Janapada Sabha* is established under Act XXXVIII of 1948, for s. 136 the following shall be substituted:—

“136. A dispute between two Gram Panchayats or a Gram Panchayat and a local authority other than a Panchayat subordinate to the same *Janapada* authority shall be referred to the *Janapada* authority and a dispute between two Gram Panchayats or a Gram Panchayat and another local authority not subordinate to the same *Janapada* authority shall be referred to the [State]* Government and the decision of the *Janapada* authority or the [State]* Government, as the case may be, shall be final.”

* The word “Provincial” was changed to “State” by the Adaptation of Laws Order, 1950.

² Sub. by the Adaptation of Laws Order, 1950.

³ Sub. by s. 3 of Act II of 1951.

Provided that a ¹[Member] whose case falls under clause (a) shall not take part in the proceedings or vote, when the question of the contract with the company in which he holds a share comes up before the Panchayat :—

Provided further that a ¹[Member] whose case falls under clause (b) shall not be the manager or publisher of any such newspaper.

(3) Nothing in the section shall apply to the payment of fees to a legal practitioner for services rendered by him in his professional capacity.

Liability of Panchas, officers and servants for causing loss of property of Gram Panchayat.

138. (1) If any ¹[Member], officer or servant of a Gram Panchayat makes or directs to be made any payment or application of any money or other property belonging to or under the control of such Panchayat to any purpose not authorised by or under this Act, or assents to or concurs or participates in any affirmative vote or proceeding relating thereto, he shall be personally liable to such Panchayat for the loss or damage caused thereby, unless he proves that he acted honestly and with due care and attention.

(2) Every member or officer or servant of a Panchayat shall be liable to such Panchayat for the loss of any money or the loss of, or damage to, other property belonging to it or under its control, if such loss or damage is a direct consequence of his negligence or misconduct.

(3) No suit shall be instituted by Panchayat against any member thereof under sub-section (1) or sub-section (2) except with the previous sanction of the ²[State] Government.

(4) Notwithstanding anything contained in sub-section (3), a suit under sub-section (1) or sub-section (2) may be instituted by the ²[State] Government.

Transfer of forest area for management to Gram Panchayat.

139. The ²[State] Government may, subject to such conditions as may be prescribed, transfer to any Gram Panchayat the management and maintenance of a forest near the boundaries of its jurisdiction.

Transfer of irrigation work or management of Gram Panchayat.

140. The ²[State] Government may, subject to such conditions as may be prescribed, transfer to any Gram Panchayat, the protection of any irrigation work, and the regulation of the distribution of water from any such irrigation work.

Records of Gram and Nyaya Panchayats to be open to inspection.

141. Subject to rules made under this Act and to the payment of such fees as may be prescribed, the records of the Gram Panchayat and its sub-committees and those of the Nyaya Panchayat shall be open to inspection to such persons as may desire it, and certified copies thereof shall be given to such persons as may apply for them.

¹ Sub. by s. 3 of Act, II of 1951.

² Sub. by the Adaptation of Laws Order, 1950.

142. (1) No ¹[Member] shall receive any remuneration or allowances for his services on the Gram Panchayat. Service of Panch to be gratuitous.

(2) No ¹[Member] of a Nyaya Panchayat shall receive any remuneration for his services on the Nyaya Panchayat but may receive such allowances as may be prescribed.

143. No ¹[Member] of a Gram Panchayat or a Nyaya Panchayat or other officer having any duty to perform in connection with any sale under this Act shall directly or indirectly bid for, or acquire any interest in any property sold at such sale. Panchas to refrain from taking part at sales.

144. (1) The ²[State] Government may make rules Rules. consistent with this Act for carrying out the purposes and objects of this Act and may attach to the breach of any rule made under this section a fine which may extend to fifty rupees to be levied by an order of the Gram Panchayat and such fine shall be recoverable by the Deputy Commissioner as if it were an arrear of land revenue.

(2) In particular, and without prejudice to the generality of the foregoing power, the ²[State] Government may make rules—

- (i) regarding all matters to be prescribed or for which rules are to be made under this Act;
- (ii) regulating the settlement of election disputes;
- (iii) providing for the procedure of sub-committee appointed by Gram Panchayats;
- (iv) regulating the time, place, language, and conduct of meetings and adjourned meetings of Gram Panchayats;
- (v) regulating the method of payment and the collection of taxes, tolls, fees or rates imposed under this Act;
- (vi) regulating the circumstances in which any person or class of persons may be exempted by a Gram Panchayat from the payment of taxes, tolls, fees or rates imposed under this Act;
- (vii) regulating the issue and service of notices by Gram Panchayats;
- (viii) prescribing fees payable for processes, summonses and notices issued by Nyaya Panchayats and Gram Panchayats and penalties for refusing to accept or comply with the same;
- (ix) prescribing the manner of preparing an annual budget and the procedure to be followed by the District Council in sanctioning it;
- (x) determining the percentage of the total income of a Gram Panchayat to be spent by it as annual expenditure on office establishment;

¹ Sub. by s. 3 of Act II of 1951.

² Sub. by the Adaptation of Laws Order, 1950.

- (xi) prescribing the registers and records to be maintained, forms to be used and periodical reports and returns to be submitted by Gram Panchayats and Nyaya Panchayats;
- (xii) regulating the language and procedure of Nyaya Panchayats;
- (xiii) regulating the time and place of sitting and the appointment or nomination of presiding officers of Nyaya Panchayats;
- (xiv) prescribing the scale of diet-money to be paid to witnesses;
- (xv) regulating the functions of visitors of Gram Panchayats.

(3) All rules made under this section shall be subject to the condition of previous publication.

Repeal.

145. The Central Provinces and Berar Village Panchayat Act, 1920, is hereby repealed:

V of 1920.

Provided that all rules made under the said Act shall, notwithstanding the repeal thereof, continue in force so far as consistent with this Act, and shall be deemed to be rules made under the appropriate provisions of this Act.

Effect of repeal on fund and property on Village Panchayats.

146. From the date the Central Provinces and Berar Village Panchayat Act, 1920, is repealed all the property V of 1920. including the Panchayat fund belonging to any Panchayat which was established under the Act hereby repealed, shall vest in the District Council and shall be held by it in trust until it is made over in accordance with the order of the ¹[State] Government or of such officer as the ¹[State] Government may appoint in this behalf to the Gram Panchayat or Gram Panchayats established under this Act in the area over which the Panchayat to whom the property belonged had jurisdiction.

Effect of repeal on cases pending in Village Courts or Benches.

147. From the date the Central Provinces and Berar Village Panchayat Act, 1920, is repealed every case pending V of 1920. on such date before a Village Bench or Village Court constituted under the Act hereby repealed shall be taken over by the Deputy Commissioner and transferred to the Nyaya Panchayat which would have had jurisdiction to try the same had it been in existence on the date on which such case was instituted.

Survival of arrears or taxes, etc. due to Village Panchayats.

148. Notwithstanding the repeal of the Central Provinces and Berar Village Panchayat Act, 1920, any arrear of V of 1920. a tax, toll, fee or rate which was imposed thereunder or any sum of money on account of fine or otherwise which was due to a Village Panchayat which was established thereunder may be recovered by the Deputy Commissioner as an arrear of land revenue and paid to the District Council, and its disposal shall be governed by the provisions of section 146.

¹ Sub. by the Adaptation of Laws Order, 1950.

149. (1) If any difficulty arises in giving effect to the provisions of this Act, the ¹[State] Government may, during a period of three years from the date on which this Act, comes into force under sub-section (3) of section 1, by an order published in the Official Gazette, amend any of the provisions of this Act for the purpose of removing the difficulty

Provisions for avoidance of difficulties.

¹(2) Subject to the provisions of sub-section (3), any amendment made by an order published under sub-section (1) shall have effect as if enacted in this Act.

(3) Every order published under sub-section (1) shall be laid on the table of ¹[Madhya Pradesh] Legislative Assembly at the session of the said Assembly next following and shall be liable to be modified or rescinded by a resolution of the said Assembly and such order shall, without prejudice to the validity of anything done thereunder, be deemed to be modified or rescinded accordingly.

150. (1) If after the issue of a notification under sub-section (3) of section 1, the ¹[State] Government find that it is expedient for any reason to suspend the operation of this Act in any local area, it may by notification order the suspension of the Act in such area.

Power to suspend operation of Act.

(2) On the publication of the last-named notification, the following consequences shall ensue, unless otherwise ordered by the ¹[State] Government, namely :—

- V of 1920.** (a) the Central Provinces and Berar Village Panchayat Act, 1920, and all rules, orders and notifications made thereunder and in force immediately before the 10th October 1947 shall revive as if the said Act had not been repealed and any authority which exercised any power by or under the provisions of the Central Provinces and Berar Village Panchayat Act, 1920, immediately before the 10th October 1947, shall exercise the same powers so long as the notification issued under sub-section (1) continues in force;
- V of 1920.** (b) the Village Panchayats and Village Benches which were working in the said area immediately before the issue of the notification under sub-section (3) of section 1 shall with effect from a specified date revive as if the operation of the Central Provinces and Berar Village Panchayat Act, 1920, had not been interrupted and shall as far as practicable consist of persons who were members thereof immediately before the said Village Panchayats and Village Benches ceased to act;

¹ Sub. by the Adaptation of Laws Order, 1950.

² Ins. by s. 4 of Act L of 1948.

- (c) all property belonging to such Village Panchayat immediately before the 10th October, 1947, and vesting in the District Council on the day of the issue of a notification under sub-section (1) shall revest in the said Village Panchayats.

(3) The ¹[State] Government may at any time revoke the notification issued under sub-section (1) and thereupon all the provisions of this Act shall apply as they applied immediately before the issue of the notification under sub-section (1).]

²CHAPTER VI

ADIMJATIYA AND PARGANA PANCHAYATS

Application
of Chapter.

151. If in the opinion of the State Government the provisions of the foregoing Chapters are unsuitable for any local area in the merged territories by reason of the majority of its inhabitants being members of the scheduled tribes it may, by notification, apply the provisions of this Chapter to such area ; and thereupon the provisions of the foregoing Chapters shall, except as hereinafter provided, not apply to such area.

Establish-
ment of
Adimjatiya
Panchayats.

152. (1) The State Government may, as it thinks fit, establish an *Adimjatiya* Panchayat for any village or group of villages.

(2) An *Adimjatiya* Panchayat shall have jurisdiction within such limits as the State Government may, by notification, specify and shall be known by the name of the village in which it is established.

Constitution
of an *Adimja-
tiya* Pancha-
yat.

153. (1) An *Adimjatiya* Panchayat shall consist of a Sarpanch and such number of Panchas as may be fixed by the State Government.

(2) The Sarpanch shall be nominated by the State Government and the Panchas shall be elected in such manner as may be prescribed.

Resignation
by a Sar-
panch or a
Panch.

154. The Sarpanch of an *Adimjatiya* Panchayat may resign his office by tendering his resignation to such revenue officer as may be prescribed and a Panch may resign his seat by tendering his resignation to the Sarpanch.

Removal of a
Sarpanch or
a Panch.

155. The Deputy Commissioner may remove a Sarpanch or a Panch for corruption, neglect of duty, continued absence from meetings, moral turpitude or any other sufficient cause and may appoint the successor of the person so removed.

Administra-
tive functions
of an *Adimja-
tiya* Pancha-
yat.

156. The State Government may, by general or special order, direct an *Adimjatiya* Panchayat to undertake within its jurisdiction the control and administration of and to be responsible for any of the matters specified in sections 30 and 31.

¹ Sub. by the Adaptation of Laws Order, 1950.

² New Chapter VI inserted by s. 3 of Act XVII of 1950.

157. (1) Every *Adimjatiya* Panchayat shall establish and maintain a fund and into such fund shall be paid— *Adimjatiya Panchayat Fund.*

- (i) all sums made payable to the *Adimjatiya* Panchayat by or under this Act, or any rule made thereunder;
- (ii) all sums contributed by the State Government or any local body or any private person;
- (iii) such other sums as the State Government may, by general or special order, permit to be paid into the fund.

(2) Subject to the provisions of this Act and any rules made thereunder, such fund shall be applicable only to the payment of charges and expenses incidental to the several matters under its control and administration.

158. (1) An *Adimjatiya* Panchayat may exercise such criminal and civil jurisdiction as may be prescribed. *Judicial functions of an Adimjatiya Panchayat.*

(2) In the exercise of its functions with respect to its criminal and civil jurisdiction, an *Adimjatiya* Panchayat shall act according to justice, equity and good conscience and shall follow such procedure as may be prescribed.

(3) Any decision given by an *Adimjatiya* Panchayat in exercise of its criminal and civil jurisdiction shall be recorded on the report of the Sarpanch by such officer as may be authorised by a general or special order by the State Government.

159. (1) The Sarpanch, in the case of a fine imposed, and the party entitled to payment under an order of the *Adimjatiya* Panchayat, in any other case, may, in the event of the failure of the person ordered to pay an amount by the *Adimjatiya* Panchayat within such time as may be prescribed, apply to the Deputy Commissioner for recovery of the amount, and the Deputy Commissioner shall, thereupon, after hearing the person liable to pay, proceed to recover the amount as if it were an arrear of land revenue. *Recovery of amounts due as arrears of land revenue in case of default.*

(2) The amount when recovered shall be remitted to the applicant.

160. An appeal shall lie against every decision of Appeal. the *Adimjatiya* Panchayat to the Pargana Panchayat constituted as hereinafter provided.

161. (1) There shall be a Pargana Panchayat for a group of *Adimjatiya* Panchayats. *Constitution of a Pargana Panchayat.*

(2) The Pargana Panchayat shall consist of a Sarpanch and four Panchas who shall all be nominated by the State Government.

162. (1) The State Government may by general or special order apply to any *Adimjatiya* or Pargana Panchayat such of the provisions of the foregoing Chapters as it may think fit. *Power to apply provisions of the Act.*

(2) For the purpose of facilitating the application of any provision contained in any of the foregoing Chapters the State Government may modify any provision, without affecting the substance thereof, in such manner as may be necessary or proper to adapt it to the circumstances of an *Adimjatiya* or Pargana Panchayat.

Continuance
of existing
Panchayats
and valida-
tion of their
acts.

163. (1) Any Panchayat functioning under any State law on or after the 26th June, 1948, in any area to which this Chapter is applied shall be deemed to have functioned as from that date under this Chapter and shall continue so to function until a new Panchayat is established hereunder.

(2) All acts done or omitted to be done, all decisions given and recoveries of fines made by any such Panchayat on or after the said date shall be deemed to have been done, given and made under this Chapter.

Power to
make rules.

164. (1) The State Government may make rules to carry out all or any of the purposes of this Chapter not inconsistent therewith and prescribe forms for any proceeding for which it considers that a form should be provided.

(2) In particular and without prejudice to the generality of the foregoing power, it shall have power to make rules with reference, if necessary, to the varying circumstances of an *Adimjatiya* Panchayat or a Pargana Panchayat -

- (a) for laying down the qualifications and disqualifications of voters and candidates, the manner of elections, the decisions of doubts and disputes, the authority who shall decide them, the liabilities of witnesses to answer questions, the evidence to be admitted, the procedure to be followed, the powers to be exercised by such authorities in making enquiries including power to indemnify witnesses against criminal proceedings and to enforce orders made in such enquiries;
- (b) for laying down the term of office of the Sarpanch and Panchas of an *Adimjatiya* Panchayat and a Pargana Panchayat and for filling casual vacancies of any Sarpanch or Panch;
- (c) for the procedure to be followed by a Panchayat in its meeting;
- (d) for the procedure to be followed by an *Adimjatiya* Panchayat when exercising criminal and civil jurisdiction and by a Pargana Panchayat when hearing an appeal;
- (e) for the custody and administration of the funds and the manner of keeping the accounts and inspection and audit thereof;
- (f) for any matter for which no provision has been made in this Chapter and for which provision is, in the opinion of the State Government, necessary.

THE SCHEDULE

(Section 68)

Act	Section(s)
(a) Under the Indian Penal Code (XLV of 1860)—	
Committing an affray	160
Not obeying a legal order to attend at a certain place in person or by agent or departing therefrom without authority.	174
Refusing oath when duly required to take oath by a public servant.	178
Being legally bound to state truth but refusing to answer questions.	179
Negligently doing any act known to be likely to spread infection of any disease dangerous to life.	269
Fouling water of a public spring or reservoir.	277
Rash driving or riding on a public way.	279
Causing danger, obstruction or injury to any person in any public way.	283
Omitting to take order with an animal in his possession so as to guard against danger to human life or of grievous hurt from such animal.	289
Committing a public nuisance ..	290
Obscene acts and songs, etc. ..	294
Voluntarily causing hurt	323
Voluntarily causing hurt on grave and sudden provocation not intending to hurt any other than the person who gave the provocation.	334
Wrongfully restraining any person ..	341
Assault or use of criminal force otherwise than on grave and sudden provocation.	352
Assault or use of criminal force on grave and sudden provocation.	358

Act	Section(s)
Unlawful compulsory labour.. ..	374
Theft or theft in a dwelling-house or theft by a servant where the value of the property stolen does not exceed Rs. 25.	379, 380, 381
Dishonestly receiving stolen property ..	411
Mischief when the damage or loss does not exceed Rs. 25 in value.	426
Mischief by killing, poisoning or maiming or rendering useless any animal of the value of Rs. 10 or upwards.	428
Mischief by killing, poisoning, maiming or rendering useless any elephant, camel, horse, etc., whatever may be its value or any other animal of the value of Rs. 50 or upwards.	429
Mischief by doing any act which causes diminution of supply of water for agricultural purposes.	430
Criminal trespass.. ..	447
House trespass	448
Dishonestly breaking open or unfastening any close receptacle containing or supposed to contain property.	461
Intentional insult with intent to provoke a breach of the peace.	504
Criminal intimidation	506
Appearing in a public place, etc., in a state of intoxication and causing annoyance to any person.	510
(b) Under the Cattle Trespass Act, 1871 (I of 1871)—	
Complaints in accordance with Chapter V of the Cattle Trespass Act (provided that any compensation for illegal seizure or detention of cattle which a Nyaya Panchayat may award shall not exceed Rs. 25).	9
Forcibly opposing the seizure of cattle or rescuing the same.	24

Act	Section(s)
Damage to land or crops or public roads by pigs or cattle.	26
(c) Under the Vaccination Act, 1880 (XIII of 1880)—	
Offences under the Act	22
(d) Under the Central Provinces and Berar Primary Education Act, 1920 (III of 1920)—	
Failure to cause a child to attend school	15
Employment of children	16
(e) Under the Central Provinces and Berar Juvenile Smoking Act, 1929 (VII of 1929)—	
To sell or give tobacco to a child under the age of sixteen.	4
(f) Under the Central Provinces and Berar Public Places User Act, 1933 (VIII of 1933)—	
Obstruction to the right of user ..	2 (2)
(g) Under the Prevention of Cruelty to Animals Act, 1890 (XI of 1890)—	
Practising phooka	4
Killing animals with unnecessary cruelty anywhere.	5
Being in possession of the skin of a goat killed with unnecessary cruelty.	5-A
Employing anywhere animals unfit for labour.	6
Permitting diseased animals to go at large or to die in public place.	7
(h) Under the Public Gambling Act, 1867 (III of 1867)—	
Owning or keeping or having charge of a gambling house.	3 (a)

Act	Section(s)
(i) Under the Central Provinces and Berar Prevention of Adulteration Act, 1919 Berar (II of 1919)—	
Sale or manufacture of food not of the proper nature, substance or quality.	4

THE MADRAS VILLAGE PANCHAYATS ACT, 1950

Madras Act No. X of 1950

An Act to make better provision for the administration of village affairs by Panchayats.

WHEREAS it is expedient to make better provision in a separate enactment for the administration of village affairs by panchayats; it is hereby enacted as follows :—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Madras Village Panchayats Act, 1950. Short title
extent and
commence-
ment.

(2) It extends to the whole of the State of Madras except the City of Madras, the municipalities governed by the Madras District Municipalities Act, 1920, and the cantonments governed by the Cantonments Act, 1924. Madras Act
V of 1920.
Central Act
II of 1924.

(3) It shall come into force on such date as the Government may, by notification in the *Fort St. George Gazette*, appoint.

2. In this Act, unless there is anything repugnant in the subject or context— Definition.

(1) 'building' includes a house, outhouse, stable, latrine, shed, hut, wall (other than a boundary wall not exceeding eight feet in height) and any other such structure, whether of masonry, bricks, wood, mud, metal or any other material whatsoever;

(2) 'Casual vacancy' means a vacancy occurring otherwise than by efflux of time, and 'casual election' means an election held to fill a casual vacancy;

(3) 'Collector' means the Collector of the revenue district;

(4) 'company' means a company as defined in the Indian Companies Act, 1913, or formed in pursuance of an Act of Parliament of the United Kingdom or of Royal Charter or Letters Patent, or of an Act of the Legislature of a British Possession and includes any firm or association carrying on business in the State of Madras, whether incorporated or not, and whether its principal place of business is situated in the said State or not; Central Act
VII of 1913.

(5) 'district board' means the body constituted for the local administration of a district under section 6, sub-section (1), of the Madras District Boards Act, 1920; Madras Act
XIV of 1920.

(6) 'election authority' means such authority, not being the president or vice-president or a member of the panchayat, as may be prescribed;

(7) 'executive authority' means—

(i) in the case of a panchayat having an executive officer, the executive officer, and if there is no executive officer in charge, the president of the panchayat;

(ii) in the case of any other panchayat, the president thereof;

(8) 'executive officer' means the executive officer of a panchayat;

(9) 'Government' means the State Government;

(10) 'house' means a building or hut fit for human occupation, whether as a residence or otherwise, having a separate principal entrance from the common way, and includes any shop, work-shop or warehouse or any building used for garaging or parking buses or as a bus-stand;

(11) 'hut' means any building which is constructed principally of wood, mud, leaves, grass or thatch and includes any temporary structure of whatever size or any small building of whatever material made, which the panchayat may declare to be a hut for the purposes of this Act;

(12) 'Inspector' means the Inspector of Municipal Councils and Local Boards, and includes any officer who is authorized by the Government to exercise or perform any of the powers or duties of the Inspector under this Act;

(13) 'latrine' includes privy, water-closet and urinal;

(14) 'member' means a member of a panchayat;

(15) 'ordinary vacancy' means a vacancy occurring by efflux of time and 'ordinary election' means an election held to fill an ordinary vacancy;

(16) 'panchayat' means the body constituted for the local administration of a village under this Act;

(17) 'prescribed' means prescribed by the Government by rules made under this Act;

(18) 'president' means the president of a panchayat;

(19) 'private road' means any street, road, square, court, alley, passage, cart-track, footpath or riding-path which is not a 'public road', but does not include a pathway made by the owner of premises on his own land to secure access to, or the convenient use of, such premises;

(20) 'public road' means any street, road, square, court, alley, passage, cart-track, footpath or riding-path, over which the public have a right of way, whether a thoroughfare or not, and includes—

(a) the roadway over any public bridge or causeway;

(b) the footway attached to any such road, public bridge or causeway; and

- (c) the drains attached to any such road, public bridge or causeway, and the land, whether covered or not by any pavement, veranda or other structure, which lies on either side of the roadway up to the boundaries of the adjacent property, whether that property is private property or property belonging to the State or Central Government;

(21) a person is deemed to have his 'residence' or to 'reside' in any house if he sometimes uses any portion thereof as a sleeping apartment, and a person is not deemed to cease to reside in any such house merely because he is absent from it or has elsewhere another dwelling in which he resides, if he is at liberty to return to such house at any time and has not abandoned his intention of returning;

(22) 'revenue village' means any local area which is recognized as a village in the revenue accounts of Government after excluding therefrom the areas, if any, included in—

(a) the City of Madras including Fort St. George with the glacis;

Madras Act
V of 1920.

(b) municipalities constituted under the Madras District Municipalities Act, 1920; and

Central Act
II of 1924.

(c) cantonments constituted under the Cantonment Act, 1921;

and includes a hamlet in existence at the commencement of this Act and notified by the Inspector to be a revenue village for the purposes of this Act;

(23) 'Scheduled Castes' shall have the same meaning as in the Constitution of India;

Madras Act
V of 1882.

(24) 'unreserved forest' means a forest not notified under section 4 of the Madras Forest Act, 1882, and includes unreserved land at the disposal of the Government;

(25) 'village' means any local area which is declared to be a village under this Act;

(26) 'watercourse' includes any river, stream or channel, whether natural or artificial;

(27) 'year' means the financial year.

CHAPTER II

CONSTITUTION, GOVERNMENT AND CONTROL OF PANCHAYATS

3. (1) The Inspector shall, as soon as may be after the commencement of this Act, by notification—

- (i) declare every revenue village with a population of not less than five hundred to be a village for the purposes of this Act and specify the name of such village;

Power of
Inspector to
constitute
and alter
villages for
purposes of
the Act.

- (ii) group a revenue village, with a population of less than five hundred, with any contiguous revenue village or villages so that the total population

of all the revenue villages so grouped is not less than five hundred, declare the revenue villages so grouped to be a village for purposes of this Act, and specify the name of such village.

(2) (a) The Inspector may, by notification, exclude from a village any revenue village comprised therein, provided that the population of the village, after such exclusion, is not less than five hundred.

(b) In regard to any village so excluded, the Inspector shall take action under sub-section (1) according as it has a population of not less than five hundred or of less than five hundred, as the case may be.

(c) Before issuing a notification under clause (a) or under clause (b) read with sub-section (1), the Inspector shall give the panchayat or panchayats which will be affected by the issue of such notification a reasonable opportunity for showing cause against the proposal and shall consider the explanation and objections, if any, of such panchayat or panchayats.

(3) The Inspector may pass such orders as he may deem fit—

- (a) as to the disposal of the property vested in a panchayat which has ceased to exist, and the discharge of its liabilities;
- (b) as to the disposal of any part of the property vested in a panchayat which has ceased to exercise jurisdiction over any local area, and the discharge of the liabilities of the panchayat relating to such property or arising from such local area.

An order made under this sub-section may contain such supplemental, incidental and consequential provisions as the Inspector may deem necessary, and in particular may direct—

- (i) that any tax, fee or other sum due to the panchayat or where a panchayat has ceased to exercise jurisdiction over any local area, such tax, fee or other sum due to the panchayat as relates to that area shall be payable to such authorities as may be specified in the order;
- (ii) that appeals, petitions, or other applications with reference to any such tax, fee or sum which are pending on the date on which the panchayat ceased to exist or, as the case may be, on the date on which the panchayat ceased to exercise jurisdiction over the local area, shall be disposed of by such authorities as may be specified in the order.

Constitution
of panchayats
for villages
and their
incorpora-
tion.

4. (1) A panchayat shall be constituted for each village with effect from a date specified in that behalf in the notification issued under section 3, sub-section (1).

(2) Subject to the provisions of this Act, the administration of the village shall vest in the panchayat but the panchayat shall not be entitled to exercise functions expressly assigned by or under this Act or any other law to its president or executive authority, or to the district board or any other authority.

(3) Every panchayat shall be a body corporate by the name of the village specified in the notification issued under section 3, shall have perpetual succession and a common seal, and, subject to any restriction or qualification imposed by or under this Act or any other law, shall be vested with the capacity of suing or being sued in its corporate name, of acquiring, holding and transferring property, movable or immovable, of entering into contracts, and of doing all things necessary, proper or expedient for the purposes for which it is constituted.

5. (1) (a) The Government shall classify panchayats with jurisdiction over a population estimated at not less than five thousand and with an estimated annual income of not less than ten thousand rupees as Class I panchayats. Classification of panchayats.

(b) Other panchayats shall be known as Class II panchayats.

(2) The Government may alter the classification of a panchayat if in their opinion the panchayat satisfies or ceases to satisfy the conditions referred to in sub-section (1), clause (a).

(3) Any decision made by the Government under this section shall not be questioned in any Court of law.

6. (1) The total number of members of a panchayat exclusive of its president shall be notified by the Inspector in accordance with such scale as may be prescribed with reference to population. Strength of panchayat.

(2) The Inspector may, from time to time, by notification, alter the total number of members of a panchayat notified under sub-section (1).

(3) The number notified under sub-section (1) or the number as altered by notification under sub-section (2) shall not be less than five or more than fifteen.

7. The members of the panchayat shall be elected in such manner as may be prescribed. Elected members.

8. (1) In every panchayat, the Inspector may, subject to such rules as may be prescribed, by notification, reserve such number of seats, if any, as he thinks fit for the members of the Scheduled Castes, with due regard to their population in the village. Reservation of seats for members of Scheduled Castes.

(2) Any reservation made under sub-section (1) shall have effect only until the first ordinary elections to the panchayat after the expiration of a period of ten years from the commencement of this Act.

(3) Nothing contained in sub-section (1) shall be deemed to prevent members of the Scheduled Castes for whom seats have been reserved in any panchayat, from standing for election to the non-reserved seats in the panchayat.

Division into wards.

9. (1) For the purpose of electing members to a panchayat, the Inspector shall, after consulting the panchayat, by notification, divide the village into wards and determine the number of members to be returned by each ward.

(2) A Class I panchayat village shall be divided into not less than five wards and a Class II panchayat village shall be divided, if it has a population of 1,000 or less, into two wards and if it has a population of more than 1,000 into not more than five wards.

Term of office of elected members.

10. (1) The term of office of the members of every panchayat who are elected at ordinary elections shall, save as otherwise expressly provided in, or may be prescribed under, this Act, be three years beginning at noon on the day on which the vacancies occur:

Provided that the Inspector may, by notification for sufficient cause which shall be stated therein, direct that the term of office of the members of any panchayat as a whole be extended or reduced by such period not exceeding three months as may be specified in the notification.

(2) Ordinary vacancies in the office of an elected member of a panchayat shall be filled at ordinary elections which shall be fixed by the election authority to take place on such day or days within three months before the occurrence of the vacancies, as he thinks fit:

Provided that the Government may for sufficient cause direct or permit the holding of any ordinary election after the occurrence of the vacancy.

(3) (a) Every casual vacancy in the office of an elected member of a panchayat shall be reported by the executive authority to the election authority within such time as may be prescribed.

(b) A member elected in a casual vacancy shall enter upon office forthwith, but shall hold office only so long as the member in whose place he is elected would have been entitled to hold office if the vacancy had not occurred.

(c) Unless the Inspector otherwise directs, no casual election shall be held to a panchayat within three months before the date of retirement of its members by efflux of time.

(4) Where the number of members of a panchayat is increased, the members elected for the additional seats or the members elected in their places in casual vacancies shall hold office until the date on which the members elected to the original seats at the ordinary elections immediately preceding, will vacate office.

Panchayat to elect members in certain cases and the term of office of such members.

11. (1) If at an ordinary or casual election, no person is elected to fill the vacancy or one or more of the vacancies, as the case may be, a fresh election shall be held on such day as the Inspector may fix.

(2) If at such fresh election also, no person is elected to fill the vacancy or any of the vacancies, as the case may be, the panchayat may, in the manner prescribed, elect a qualified person to fill such vacancy.

(3) The term of office of a member of a panchayat elected under this section, shall expire at the time at which it would have expired if he had been elected at the ordinary or casual election, as the case may be.

12. (1) An electoral roll for each panchayat showing the names of persons qualified to vote at elections thereto, shall be prepared and published, and shall be revised, at such times, by such authority, and in such manner as may be prescribed.

Preparation and publication of electoral roll and qualifications for inclusion therein.

(2) Every person whose name is included or who is qualified to be included in that part of the electoral roll for any territorial constituency of the Madras Legislative Assembly which relates to the village or any portion thereof shall be entitled to be included in the electoral roll for the panchayat and no other person shall be entitled to be included therein.

Explanation I.—Where in the electoral roll of any territorial constituency of the Madras Legislative Assembly there is no distinct part relating to the village, the following persons shall be entitled to be included in the electoral roll for the Panchayat :—

(a) All persons who are entered in such roll under the registration area comprising such village and whose addresses as entered in such roll are situated in such village.

(b) All persons who are qualified to be included in such roll under the registration area aforesaid and who reside in such village.

Explanation II.—In this sub-section, the expression “territorial constituency” shall have the same meaning as in the law made under Article 327 or, as the case may be, under Article 328 of the Constitution of India.

(3) The name of any person shall not be included in the electoral roll for a panchayat in more than one place.

(4) The electoral roll for the panchayat shall be divided into separate parts for each ward.

(5) Every person whose name appears in the electoral roll for the panchayat shall, so long as it remains in force and subject to any revision thereof which might have taken place and subject also to the other provisions of this Act, be entitled to vote at an election; and no person whose name does not appear in such roll shall vote at an election:

Provided that a person who is of unsound mind, a deaf-mute or a leper, shall not be entitled to vote at any election.

13. No person shall be qualified for election as a member of a panchayat unless his name appears on its electoral roll.

Qualification of candidates.

14. (1) No village headman, karnam, or village servant and no other officer or servant of the State or Central Government or of a panchayat, district board, municipal council or the Corporation of Madras shall be qualified for election as a member or for holding office as an elected member.

Disqualification of officers and servants of Government and local bodies.

(2) If any question arises either before or after an election, whether any person is or is not disqualified under this section, the question shall be referred to the Government whose decision shall be final.

Disqualifi-
cation of
persons con-
victed of
election
offences.

15. Every person convicted of an offence punishable under Chapter IX-A of the Indian Penal Code or under any law or rule relating to the infringement of the secrecy of an election, shall be disqualified from voting or from being elected in any election to which this Act applies or from holding the office of member of a panchayat, for a period of five years from the date of his conviction or for such shorter period as the Court may by order determine. Central Act
XLV of
1860.

Disqualifi-
cations of
candidates.

16. (1) A person who has been sentenced by a criminal court to transportation or to imprisonment for a period of more than six months for any offence other than an offence not involving moral delinquency (such sentence not having been reversed or the offence pardoned), shall be disqualified for election as a member while undergoing the sentence and for five years from the date of the expiration thereof :

Provided that the Government may direct that such sentence shall not operate as a disqualification.

(2) A person shall be disqualified for election as a member if, at the date of nomination or election, he is—

- (a) of unsound mind, a deaf-mute or a leper;
- (b) an applicant to be adjudicated an insolvent or an undischarged insolvent;
- (c) interested in a subsisting contract made with, or any work being done for, the panchayat, except as a shareholder (other than a director) in a company or except as permitted by rules made under this Act;
- (d) employed as paid legal practitioner on behalf of the panchayat or as legal practitioner against the panchayat;
- (e) an honorary Magistrate under the Code of Criminal Procedure, 1898, with jurisdiction over any part of the village; Central Act
V of 1898.
- (f) already a member of the panchayat whose term of office will not expire before his fresh election can take effect or has already been elected as a member of the panchayat whose term of office has not yet commenced ;
- (g) the servant or employer or the official subordinate or official superior of a member holding office at the said date; or
- (h) in arrears of any kind due by him (otherwise than in a fiduciary capacity) to the panchayat up to and inclusive of the previous year, in respect of which a bill or notice has been duly served upon him and the time, if any, specified therein for payment has expired.

17. Subject to the provisions of section 19, a member shall cease to hold office as such if he—

Disqualifications of members.

- (a) is sentenced by a criminal court to such punishment and for such offence as is described in sub-section (1) of section 16:

Provided that the Government may direct that such sentence shall not operate as a disqualification;

- (b) becomes of unsound mind, a deaf-mute or a leper;
- (c) applies to be adjudicated, or is adjudicated, an insolvent;
- (d) acquires any interest in any subsisting contract made with, or work being done for, the panchayat except as a shareholder (other than a director) in a company or except as permitted by rules made under this Act;
- (e) is employed as paid legal practitioner on behalf of the panchayat, or accepts employment as legal practitioner against the panchayat;
- (f) is appointed as an officer or servant under this Act;
- (g) is appointed as an honorary Magistrate under the Code of Criminal Procedure, 1898, with jurisdiction over any part of the village;
- (h) accepts employment under, or becomes the official subordinate of any other member;
- (i) ceases to reside in the village;
- (j) fails to pay arrears of any kind due by him (otherwise than in a fiduciary capacity) to the panchayat within three months after a bill or notice has been served upon him in pursuance of rules made under this Act, or where in the case of any arrear, such rules do not require the service of any bill or notice, within three months after a notice requiring payment of the arrear (which notice it shall be the duty of the executive authority of the panchayat to serve at the earliest possible date) has been duly served upon him by the executive authority;
- (k) absents himself from the meetings of the panchayat for a period of three consecutive months reckoned from the date of the commencement of his term of office, or of the last meeting which he attended, or of his restoration to office as member under section 18, sub-section (1), as the case may be, or if within the said period, less than three meetings have been held, absents himself from three consecutive meetings held after the said date:

Provided that no meeting from which a member absented himself shall be counted against him under this clause if—

- (i) due notice of that meeting was not given to him; or

- (ii) the meeting was held after giving shorter notice than that prescribed for an ordinary meeting; or
 - (iii) the meeting was held on a requisition of members;
- (l) is removed from office under section 132, sub-section (4).

Restoration of members to office.

18. (1) Where a person ceases to be a member under section 15 or clause (a) of section 17, he shall be restored to office for such portion of the period for which he was elected, as may remain unexpired at the date of such restoration, if and when the sentence is annulled on appeal or revision, or the disqualification caused by the sentence is removed by an order of the Government; and any person elected to fill the vacancy in the interim shall, on such restoration, vacate office.

(2) Where a person ceases to be a member under clause (k) of section 17, the executive authority shall at once intimate the fact in writing to such person and report the same to the panchayat at its next meeting. If such person applies for restoration *suo motu* to the panchayat on or before the date of its next meeting or within fifteen days of the receipt by him of such intimation, the panchayat may at the meeting next after the receipt of such application restore him to his office of member:

Provided that a member shall not be so restored more than twice during his term of office.

Authority to decide questions of disqualification of members.

19. (1) Whenever it is alleged that any person who has been elected as a member of a panchayat is not qualified or has become disqualified under section 13, 15, 16 or 17 and such person does not admit the allegation, or whenever any member is himself in doubt whether or not he is not qualified or has become disqualified under section 15, 16 or 17, such member or any other member may, and the executive authority shall, on the direction of the panchayat or of the Inspector, apply to the prescribed judicial authority whose decision shall be final.

(2) Pending such decision, the member shall be entitled to act as if he is qualified or were not disqualified.

President and Vice-president

President and Vice-president of panchayat.

20. There shall be a president and a vice-president for every panchayat.

Election and term of office of president.

21. (1) The president shall be elected by the persons whose names appear in the electoral roll for the panchayat, from among themselves.

If at an election held under this sub-section no president is elected, a fresh election shall be held :

Provided that no member shall be eligible to stand for election as president:

Provided further that a person who stands for election as president shall not be eligible to stand for election as a member.

(2) The election of the president may be held at the same times and in the same places as the ordinary elections of the members of the panchayat.

(3) Save as otherwise expressly provided in or prescribed under this Act, the term of office of the president who is elected at an ordinary election shall be three years beginning at noon on the day on which the vacancy occurs, and if such election is held after the occurrence of the vacancy, his term of office shall commence from the date of his election and expire at the time at which it would have expired if he had been elected before the occurrence of the vacancy.

(4) Subject to the provisions of sub-section (5), any casual vacancy in the office of the president shall be filled by a fresh election and a person elected as president in any such vacancy shall hold office only so long as the person in whose place he is elected would have been entitled to hold office if the vacancy had not occurred.

(5) Unless the Inspector otherwise directs no casual vacancy in the office of the president shall be filled within three months before the date on which the ordinary election of the president under sub-section (1) is due.

(6) The provisions of sections 14 to 19 shall apply in relation to the office of the president as they apply in relation to the office of an elected member of the panchayat.

(7) The president shall be an *ex-officio* member of the panchayat and shall be entitled to vote at meetings of the panchayat.

22. The vice-president shall be elected by the panchayat from among its members. Election of vice-president.

If at an election held under this section no vice-president is elected, a fresh election shall be held.

23. The president or vice-president shall cease to hold office as such— Cessation of office of president and vice-president.

(a) in every case, on his election as president or vice-president of the district board or of any other panchayat in the district;

(b) in the case of the president, on his becoming disqualified for holding the office or on his removal from office or on the expiry of his term of office;

(c) in the case of the vice-president, on the expiry of his term of office as a member or on his otherwise ceasing to be a member or on his election as president.

Functions
of the
president.

24. The president shall—

- (a) make arrangements for the election of the vice-president;
- (b) convene the meetings of the panchayats;
- (c) have full access to the records of the panchayat;
- (d) discharge all the duties and exercise all the powers specifically imposed or conferred on the president by this Act.

Devolution
and
delegation of
president's
functions
and filling
up of vacan-
cies in the
office of
president.

25. (1) When the office of president is vacant, the vice-president shall exercise the functions of the president until a new president is declared elected and assumes office.

(2) If the president has been continuously absent from jurisdiction for more than fifteen days or is incapacitated, his functions during such absence or incapacity shall, except in such circumstances as may be prescribed, devolve on the vice-president.

(3) When the office of president is vacant or the president has been continuously absent from jurisdiction for more than fifteen days or is incapacitated and there is either a vacancy in the office of vice-president or the vice-president has been continuously absent from jurisdiction for more than fifteen days or is incapacitated, the functions of the president shall devolve on a member of the panchayat appointed by the Inspector in this behalf.

The member of the panchayat so appointed (who shall be styled the temporary president) shall perform the functions of the president subject to such restrictions and conditions as may be prescribed until a new president or vice-president is declared elected and assumes office, or either the president or the vice-president returns to jurisdiction or recovers from his incapacity, as the case may be.

(4) Any vacancy in the office of president shall be reported to the election authority, by such person and within such time as may be prescribed, and the election authority shall arrange for the election of the president.

(5) Subject to such rules as may be prescribed, the president may, by an order in writing, delegate any of his functions, with such restrictions and conditions as may be specified in the order, to the vice-president, or in case there is a vacancy in the office of vice-president or the vice-president has been continuously absent from jurisdiction for more than fifteen days or is incapacitated, to any member.

(6) The reference to the president's functions in sub-sections (1), (2), (3) and (5) shall, where he is also the executive authority, be deemed to include a reference to his functions as executive authority.

(7) The president shall have power to control and revise the exercise or discharge of any functions devolving on the vice-president under sub-section (2) or delegated to the vice-president or any member under sub-section (5).

Members

26. (1) Any member may call the attention of the executive authority to any neglect in the execution of panchayat work, to any waste of panchayat property or to the wants of any locality, and may suggest any improvements which may appear desirable. Rights of individual members.

(2) Every member shall have the right to move resolutions and to interpellate the president on matters connected with the administration of the panchayat, subject to such rules as may be prescribed.

(3) Every member shall have access during office hours to the records of the panchayat after giving due notice to the executive authority, provided that the executive authority may, for reasons given in writing, forbid such access.

27. No president, vice-president or member shall receive or be paid from the funds at the disposal of or under the control of the panchayat any salary or other remuneration for services rendered by him whether in his capacity as such or in any other capacity. No president vice-president or member to receive remuneration.

The Executive Officer

28. (1) A whole-time executive officer shall be appointed by the Government for any panchayat which may be notified by them in this behalf. Appointment of executive officers for certain panchayats.

(2) In the case of every panchayat not so notified and also in the case of any panchayat so notified, if there is no executive officer in charge, the president of the panchayat shall, subject to such rules as may be prescribed, perform the functions of the executive officer.

(3) Save as otherwise prescribed, no executive officer appointed under sub-section (1) shall undertake any work unconnected with his office without the sanction of the Government.

(4) The panchayat shall pay the executive officer such salary and allowances as may from time to time be fixed by the Government.

(5) The panchayat shall also make—

(a) if the executive officer is in the service of the Government such contribution towards his leave allowances, pension and provident fund as may be required by the conditions of his service under the Government to be made by him or on his behalf;

(b) if the executive officer is not in the service of the Government such contribution towards his leave allowances, pension and provident fund as may be prescribed in this behalf.

(6) The Government shall have power to regulate the classification, methods of recruitment, conditions of service, pay and allowances, and discipline and conduct of the executive officers appointed under sub-section (1).

Functions of
executive offi-
cer.

29. The executive officer shall—

- (a) have the right to attend the meetings of the panchayat or of any committee thereof and take part in the discussions thereat but without the right to move any resolution or to vote;
- (b) attend any meeting of the panchayat or of any committee thereof if required to do so by the presiding officer.

Powers and Duties of the Executive Authority

Functions of
executive
authority.

30. The executive authority shall—

- (a) carry into effect the resolutions of the panchayat:

Provided that where the president considers that a resolution has not been legally passed or is in excess of the powers conferred by this Act or that, if carried out, it is likely to endanger human life or health or the public safety, the executive authority shall refer the matter to the Government for orders, and their decision shall be final;

- (b) control all the officers and servants of the panchayat;
- (c) discharge all the duties and exercise all the powers specifically imposed or conferred on the executive authority by or under this Act and subject to all restrictions and conditions imposed by or under this Act, exercise the executive power for the purpose of carrying out the provisions of this Act and be directly responsible for the due fulfilment of the purposes thereof.

Emergency
powers of
executive
authority.

31. The executive authority may in cases of emergency direct the execution of any work or the doing of any act which requires the sanction of the panchayat and the immediate execution or doing of which is, in his opinion, necessary for the safety of the public, and may direct that the expenses of executing such work or doing such act shall be paid from the panchayat fund :

Provided that—

- (a) he shall not act under this section in contravention of any order of the panchayat prohibiting the execution of any particular work or the doing of any particular act, and
- (b) he shall report the action taken under this section and the reasons therefor to the panchayat at its next meeting.

Exercise of
functions of
executive
authority by
Health
Officer in
certain cases.

32. The Inspector may, by general or special order, authorize the Health Officer of a panchayat, or if there is no such officer, the Health Officer of the district, to exercise such of the functions of an executive authority under this Act in such area and subject to such restrictions and conditions and to such control and revision as may be specified in such order

33. Subject to such restrictions and control as may be prescribed, the executive authority may, by an order in writing, delegate any of his functions as such—

Delegation
of function
of executive
authority.

- (i) if he is the president, to the vice-president and in the absence of the vice-president, to any other member;
- (ii) if he is not the president, to the president; in the absence of the president, to the vice-president; and in the absence of both the president and the vice-president, to any other member.

The exercise or discharge of any functions so delegated shall be subject to such restrictions and conditions as may be laid down by the executive authority and shall also be subject to his control and revision.

Establishment

34. (1) Subject to such rules as may be made under sub-section (2), the Inspector shall fix, and may alter, the number, designations and grades of, and the salaries, fees and allowances payable to, the officers and servants of every panchayat, other than the executive officer:

Officers and
servants of
panchayats.

Provided that in an emergency, the executive authority may, subject to such rules as may be prescribed, employ temporarily additional officers and servants.

(2) The Government shall have power to make rules regarding the authorities who may appoint the officers and servants of panchayats, other than the executive officers, and the classification, methods of recruitment, pay and allowances, discipline and conduct, and conditions of service of such officers and servants.

Such rules may provide for the constitution of any class of officers or servants of panchayats other than the executive officers into a separate service for the whole of the State.

(3) Two or more panchayats may, subject to such rules as may be prescribed, and shall if so required by any authority empowered in this behalf by rules, appoint the same officer or servant to exercise or discharge any powers or duties of a similar nature for both or all of them.

(4) Notwithstanding anything contained in this Act, the Madras District Municipalities Act, 1920, or the Madras District Boards Act, 1920, any officer or servant of a panchayat (including the executive officer) may be transferred—

Madras Act
V of 1920.
Madras Act
XIV of 1920.

(i) to the service of any other panchayat by the Inspector;

(ii) to the service of any district board constituted under the Madras District Boards Act, 1920, or of any municipality constituted under the Madras District Municipalities Act, 1920, by the Government :

Madras Act
XIV of 1920.
Madras Act
V of 1920.

Provided that no officer or servant (other than the executive officer) shall be so transferred except after consulting—

- (a) the executive authorities of the panchayats concerned in cases falling under clause (i) of this sub-section; and
- (b) the district board or municipal council concerned and the executive authority of the panchayat in cases falling under clause (ii) of this sub-section.

Any authority making a transfer under this sub-section may issue such general or special directions as may in its opinion be necessary for the purpose of giving due effect to such transfer.

(5) The Inspector may recover from a panchayat the whole or such proportion of the salary and allowances paid to any officer or servant of the panchayat other than the executive officer, and such contribution towards his leave allowances, pension and provident fund, as the Government may, by general or special order determine, in the following cases, namely :—

- (a) where such officer or servant was appointed to the service of the panchayat by the Government; and
- (b) where such officer or servant is a servant of the Government.

(6) All officers and servants of the panchayat shall be subordinate to the executive authority, and save as otherwise provided in this Act or in the rules made thereunder and subject to such restrictions and control and such rights of appeal as may be prescribed in such rules, the executive authority may—

- (a) appoint all officers and servants of the panchayat;
- (b) grant leave to any such officer or servant; and
- (c) for any good and sufficient reason, censure, fine, withhold increments or promotion from, reduce to a lower rank in the seniority list or to a lower post or time-scale or to a lower stage in a time-scale, suspend, remove or dismiss any such officer or servant.

(7) The provisions of this section shall also apply to the public health establishments of panchayats, notwithstanding anything contained in the Madras Public Health Act, 1939. Madras Act
III of 1939.

(8) (i) Notwithstanding anything contained in this Act, and subject to such rules as may be prescribed, the Inspector may—

- (a) appoint such engineering and other staff as he considers necessary for the purposes of any panchayat and recover from it the salary and allowances paid to the members of such staff and such contribution towards their leave allowances, pension and provident fund as he may by general or special order, determine;

- (b) appoint a common engineering or other staff for the purposes of two or more panchayats and recover from each of the panchayats concerned such proportion of the salary and allowances paid to the members of such staff and such contribution towards their leave allowances, pension and provident fund as he may, by general or special order, determine.
- (ii) The pay and allowances and conditions of service of any member of the staff appointed under clause (i) shall be such as may be prescribed.

Procedure

35. (1) Every meeting of a panchayat shall be presided over by the president; in his absence, by the vice-president; and in the absence of both the president and vice-president, by a member chosen by the meeting to preside for the occasion. Presidency at meeting.

(2) The president shall preserve order and decide all points of order arising at or in connection with meetings. There shall be no discussion on any point of order and the decision of the president on any point of order shall, save as otherwise expressly provided in this Act, be final.

(3) A vice-president or member presiding for the occasion shall, for that meeting and during the period that he presides over it, have all the powers of the president.

36. A copy of the minutes of the proceedings at every meeting of a panchayat as well as of all minutes of dissent in respect of such proceedings received from any member (other than the president) present at the meeting, within 48 hours of the close thereof, shall be submitted by the president within three days of the date of the meeting to the Inspector. Minutes of proceedings.

Provided that the Inspector may direct that such minutes shall be submitted either generally or in any specified classes of cases to any officer empowered by him in this behalf.

37. A panchayat may require the executive authority to produce any document which is in his custody and he shall, subject to such rules as may be prescribed, comply with every such requisition. Power of panchayat to call for records.

38. (1) The proceedings of every panchayat and of all committees thereof shall be governed by such rules as may be prescribed and by regulations, not inconsistent with such rules or the provisions of this Act, made by the panchayat with the approval of the Inspector. Proceedings of panchayats and committees.

(2) The Inspector shall have power to add to, omit, or alter any regulations submitted for his approval under sub-section (1).

(3) The rules referred to in sub-section (1) may provide for preventing any member or president or any member or chairman of a committee from voting on, or taking part in the discussion of, any matter in which apart from its general

application to the public, he has any direct or indirect pecuniary interest, whether by himself or through some other person, or from being present or presiding at any meeting of the panchayat or of the committee during the discussion of any such matter.

Appointment
of joint
committees.

39. (1) A panchayat may, and if so required by the Inspector shall, join with one, or more than one, other local authority in constituting a joint committee for any purpose for which they are jointly responsible.

(2) The constitution, powers and procedure of a joint committee and the method of settling differences of opinion arising in connection with the committee between the local authorities concerned shall be in accordance with such rules as may be prescribed.

Administra-
tion report.

40. (1) Every panchayat shall submit to the Inspector a report on its administration for each year as soon as may be after the close of such year and not later than the prescribed date, in such form, with such details, and through such authority as may be prescribed.

(2) The report shall be prepared by the executive authority and the panchayat shall consider it and forward the same to the Inspector with its resolutions thereon, if any.

(5) The Inspector shall submit to the Government a general report on the administration of panchayats in the State during the year.

Validation of Proceedings

Acts of
panchayats,
etc., not to
be invalidat-
ed by
informality,
vacancy, etc.

41. No act of a panchayat or of a committee thereof or of any person acting as president, vice-president, chairman or member of such panchayat or committee shall be deemed to be invalid by reason only of a defect in the establishment of such panchayat or committee, or on the ground that the president, vice-president, chairman or any member of such panchayat or committee was not entitled to hold or continue in such office by reason of any disqualification or by reason of any irregularity or illegality in his election, or by reason of such act having been done during the period of any vacancy in the office of president, vice-president, chairman or member of such panchayat or committee.

Control

Inspector:
and
superintend-
ing officers
and their
and the
Govern-
ment's
powers.

42. (1) The Inspector shall supervise the administration of all panchayats in the State and shall also exercise the powers and perform the duties vested in him by or under this Act. He shall be assisted by one or more Regional Inspectors appointed by the Government.

(2) (a) The Government may appoint such other officers as they may consider necessary for the purpose of inspecting or superintending the operations of all or any of the panchayats constituted under this Act.

(b) In particular and without prejudice to the generality of the foregoing provision, the Government may appoint one or more District Panchayat Officers and one or more Deputy Panchayat Officers for each revenue district.

(c) The Government shall have power to regulate the classification, methods of recruitment, conditions of service, pay and allowances and discipline and conduct of the officers referred to in clauses (a) and (b) and of the members of their establishment.

(3) The cost of the officers and the members of the establishment aforesaid shall be paid out of the Consolidated Fund of the State.

(4) The District and the Deputy Panchayat Officers shall exercise such powers and perform such duties as may be prescribed, or as may be delegated to them under this Act.

(5) The Inspector or the Collector or any officer appointed under sub-section (1) or any other officer or person whom the Government, or the Inspector or the Collector may empower in this behalf, may enter on and inspect, or cause to be entered on and inspected—

- (a) any immovable property, or any work in progress, under the control of any panchayat or executive officer;
- (b) any school, hospital, dispensary, vaccination station, choultry or other institution maintained by, or under the control of, any panchayat and any records, registers or other documents kept in such institution;
- (c) the office of any panchayat and any records, registers or other documents kept therein.

Panchayats and their presidents, executive authorities officers and servants shall be bound to afford to the officers and persons aforesaid, such access, at all reasonable times, to panchayat property or premises and to all documents as may, in the opinion of such officers or persons, subject to such rules as may be prescribed, be necessary to enable them to discharge their duties under this section.

(6) The Inspector or any officer or person whom the Government, or the Inspector may empower in this behalf may—

- (a) direct the panchayat to make provision for and to execute or provide any public work or amenity, or service of the description referred to in section 50;
- (b) call for any record, register or other document in the possession, or under the control, of any panchayat or executive authority;
- (c) require any panchayat or executive authority to furnish any return, plan, estimate, statement, account or statistics;
- (d) require any panchayat or executive authority to furnish any information or report on any matter connected with such panchayat;
- (e) record in writing for the consideration of any panchayat or executive authority any observations in regard to its or his proceedings or duties.

Power to suspend or cancel resolution, etc., under the Act.

43. (1) The Inspector may, by order in writing,—

- (i) suspend or cancel any resolution passed, order issued, or licence or permission granted, or
- (ii) prohibit the doing of any act which is about to be done or is being done,

In pursuance or under colour of this Act if, in his opinion,—

- (a) such resolution, order, licence, permission or act has not been legally passed, issued, granted or authorized, or
- (b) such resolution, order, licence, permission or act is in excess of the powers conferred by this Act or any other law or an abuse of such powers or is considered by the Inspector to be otherwise undesirable, or
- (c) the execution of such resolution or order, or the continuance in force of such licence or permission or the doing of such act is likely to cause danger to human life, health or safety, or is likely to lead to a riot or an affray:

Provided that nothing in this sub-section shall enable the Inspector to set aside any election which has been held.

(2) The Inspector shall, before taking action on any of the grounds referred to in clauses (a) and (b) of sub-section (1), give the authority or person concerned an opportunity for explanation.

(3) The power conferred on the Inspector under clause (c) of sub-section (1) may be exercised by the Collector in accordance with the provisions of that clause.

Emergency powers of Collector and Inspector.

44. Subject to such control as may be prescribed, the Inspector or the Collector may, in cases of emergency, direct or provide for the execution of any work, or the doing of any act which a panchayat or executive authority is empowered to execute or do, and the immediate execution or doing of which is in his opinion necessary for the safety of the public, and may direct that the expense of executing such work or doing such act shall be paid by the person having the custody of the panchayat fund in priority to any other charge against such fund except charges for the service of authorised loans.

Control over electrical undertakings of panchayats.

45. The administration by a panchayat of any undertaking for the generation, transmission, supply or use of electrical energy shall be subject to such control as may be prescribed, not inconsistent with the Indian Electricity Act, 1910, or the Electricity (Supply) Act, 1948, as in force for the time being, the rules made under those Acts, and the terms of the licence granted under them to the panchayat.

Central Act XI of 1910.
Central Act LIV of 1948.

Power to take action in default of a panchayat, president or executive authority.

46. (1) If at any time it appears to the Inspector that a panchayat, president or executive authority has made default in performing any duty imposed by or under this or any other Act, he may, by order in writing, fix a period for the performance of such duty.

(2) If such duty is not performed within the period so fixed, the Inspector may appoint some person to perform it, and may direct that the expense of performing it shall be paid by the person having the custody of the panchayat fund in priority to any other charges against such fund except charges for the service of authorized loans.

47. (1) The Inspector may, by notification and with effect from a date to be specified therein, remove any president or vice-president who, in his opinion, wilfully omits or refuses to carry out or disobeys the provisions of this Act or any rules, bye-laws, regulations or lawful orders issued thereunder, or abuses the powers vested in him. Removal of president, vice-president or member.

(2) The Inspector may, by notification and with effect from a date to be specified therein, remove any member who, in his opinion, is guilty of any misconduct in the discharge of his duties.

(3) The Inspector shall, when he proposes to take action under sub-section (1) or (2), give the president, vice-president or member concerned an opportunity for explanation, and the notification issued shall contain a statement of the reasons for the action taken.

(4) The Government shall have power to cancel any notification issued under sub-section (1) or (2) and may, pending a decision on the question of such cancellation, postpone the date specified in such notification.

(5) Any person in respect of whom a notification has been issued under sub-section (1) or (2) removing him from the office of president, vice-president or member shall, unless the notification is cancelled under sub-section (4), be ineligible for election as president or vice-president or for election as member or from holding any of those offices until the date on which notice of the next ordinary elections to the panchayat is published in the prescribed manner, or the expiry of one year from the date specified in such notification as postponed by the order, if any, issued under sub-section (4), whichever is earlier.

48. (1) If, in the opinion of the Government, a panchayat is not competent to perform or persistently makes default in performing the duties imposed on it by law, or exceeds or abuses its powers, they may, by notification— Dissolution and supersession of panchayats.

(a) direct that the panchayat be dissolved with effect from a specified date and reconstituted either immediately or with effect from another specified date, or

(b) supersede the panchayat for a period not exceeding one year from a specified date.

(2) Nothing contained in sub-section (1) shall affect the continuance in office of the president during the period of dissolution or supersession of the panchayat.

(3) Before publishing a notification under sub-section (1), the Government shall communicate to the panchayat the grounds on which they propose to do so, fix a reasonable period for the panchayat to show cause against the proposal, and consider its explanations and objections, if any.

(4) On the date fixed for the dissolution or supersession of a panchayat under sub-section (1), all its members as well as its vice-president shall forthwith be deemed to have vacated their offices as such.

(5) During the interval, if any, between the dissolution and the reconstitution of a panchayat or during the period of its supersession, as the case may be, the president shall exercise and discharge the powers and duties of the panchayat as far as may be and to such extent as the Government may determine in that behalf. In case the office of president is vacant on the date of dissolution or supersession of the panchayat or falls vacant before the reconstitution of the panchayat, the Inspector may appoint a person to exercise the powers and discharge the duties of the panchayat and of its president including where the president is also the executive authority, his powers and duties as such until the reconstitution of the panchayat. Any person other than the executive officer who is so appointed may, if the Inspector so directs, receive payment for his services from the panchayat.

(6) The members, other than the president, of a reconstituted panchayat shall enter upon their offices on the date fixed for its reconstitution and their term of office shall expire in such year and on such date as the Government may fix. The year so fixed shall be either the year in which the next ordinary elections or the year in which the ordinary elections immediately succeeding such elections are to be held for any panchayat in the same district. The date so fixed shall not be later than the 31st day of December.

(7) When a panchayat is dissolved or superseded under this section, the Government until the date of the reconstitution thereof, and the reconstituted panchayat thereafter, shall be entitled to all the assets and be subject to all the liabilities of the panchayat as on the date of the dissolution or supersession and on the date of the reconstitution respectively.

Powers of officers acting for, or in default of panchayat and liability of panchayat fund.

49. The Government, the Inspector or any other person lawfully taking action on behalf, or in default, of a panchayat under this Act, shall have such powers as are necessary for the purpose and shall be entitled to the same protection under this Act as the panchayat or its officers or servants whose powers are exercised; and compensation shall be recoverable from the panchayat fund by any person suffering damage from the exercise of such powers to the same extent, as if the action had been taken by the panchayat or its officers or servants.

CHAPTER III

FUNCTIONS, POWERS AND PROPERTY OF PANCHAYATS

Duty of panchayat to provide for certain matters.

50. Subject to the provisions of this Act and the rules made thereunder, it shall be the duty of a panchayat, within the limits of its funds, to make reasonable provision for carrying out the requirements of the village in respect of the following matters, namely :—

- (a) the construction, repair and maintenance of all public roads in the village (other than district roads and roads which are classified by the Government as national and State highways) and of all bridges, culverts, road-dams and causeways on such roads;
- (b) the lighting of public roads and public places;
- (c) the construction of drains and the disposal of drainage water and sullage;
- (d) the cleansing of streets, the removal of rubbish heaps, jungle growth and prickly-pear, the filling in of disused wells, insanitary ponds, pools, ditches, pits or hollows, and other improvements of the sanitary condition of the village;
- (e) the provision of public latrines and arrangements to cleanse latrines whether public or private;
- (f) the opening and maintenance of burial and burning grounds;
- (g) the sinking and repairing of wells, the excavation, repair and maintenance of ponds or tanks and the construction and maintenance of water-works for the supply of water for washing and bathing purposes and of protected water for drinking purposes;
- (h) preventive and remedial measures connected with any epidemic, or with malaria.

51. Subject to the provisions of this Act and the rules made thereunder, a panchayat may also make such provision as it thinks fit for carrying out the requirements of the village in respect of the following matters, namely :—

Power of panchayat to provide for certain other matters.

- (a) the planting and preservation of trees on the sides of public roads in the village not being district roads or roads classified by the Government as national or State highways;
- (b) the opening and maintenance of public markets other than markets which are classified as district markets;
- (c) the control of fairs and festivals other than those classified as district fairs and festivals;
- (d) the opening and maintenance of public landing places, halting places and cart-stands and of public cattle-sheds;
- (e) the opening and maintenance of public slaughter houses;
- (f) the establishment and maintenance of choultries other than those classified as district choultries;
- (g) the extension of village-sites and the regulation of building;
- (h) the registration of births and deaths;
- (i) improvements of agriculture and agricultural stock and the holding of agricultural shows;

- (j) the promotion and encouragement of cottage industries;
- (k) the opening and maintenance of elementary schools
- (l) the opening and maintenance of reading rooms and of libraries which are not classified as district, libraries;
- (m) the establishment and maintenance of wireless receiving sets, playgrounds, sports clubs and centres of physical culture;
- (n) the establishment and maintenance of dispensaries and the payment of subsidies to rural medical practitioners;
- (o) the establishment and maintenance of maternity and child-welfare centres;
- (p) veterinary relief;
- (q) other measures of public utility calculated to promote the safety, health, comfort or convenience of the inhabitants of the village.

Maintenance of common dispensaries, child-welfare centres, etc. **52.** Subject to the provisions of this Act and the rules made thereunder, two or more panchayats may establish and maintain common dispensaries, child-welfare centres and institutions of such other kind as may be prescribed.

Transfer to panchayats of unreserved forests and other institutions or works. **53.** (1) (a) All unreserved forests in the village at the commencement of this Act shall vest in the panchayat and be administered by it for the benefit of the villagers.

(b) In respect of every forest so vested, the panchayat shall, if so required by the Collector, pay to the Government such rent as the Collector may, from time to time, subject to the control of the Board of Revenue, fix in this behalf.

(2) (a) If the Revenue Divisional Officer is of opinion that a panchayat is not administering properly a forest vesting in it under sub-section (1), he may, by order, withdraw such forest from the control of the panchayat for such period as may be specified in the order, not exceeding the period, if any, prescribed in this behalf.

(b) The Revenue Divisional Officer, may, from time to time, by order, extend the period specified in any order issued under clause (a).

(c) Before issuing an order under clause (a) or (b), a reasonable opportunity shall be given to the panchayat to show cause against such issue.

(d) Where an order is issued under clause (a) or (b) the panchayat concerned may, within three months of the service of the order, appeal against it to the Collector, and the Collector may confirm, modify or reverse the order.

(3) The Board of Revenue may, in its discretion, at any time, either *suo motu* or on application, call for and examine the record of any order issued by the Revenue Divisional Officer or the Collector under sub-section (2) for the purpose of satisfying itself as to the legality or propriety of such order, and may pass such order in reference thereto as it thinks fit.

(4) Subject to such rules as may be prescribed, the Government, the Board of Revenue, the Collector or Revenue Divisional Officer, the district board or its executive authority, or any person or body of persons, may transfer to the panchayat, with its consent and subject to such conditions as may be agreed upon, the management of any institution, or the execution or maintenance of any work, or the exercise of any power or the discharge of any duty, whether within or without the village, and whether provided for in this Act or not.

Madras
Regulation
VII of 1817.

54. (1) (a) Subject to the control of the Government, the Board of Revenue may, by notification, make over to a panchayat, with its consent, the management and superintendence of any charitable endowment in respect of which powers and duties attach to the Board of Revenue under the provisions of the Madras Endowments and Escheats Regulation, 1817; and thereupon all powers and duties attaching to the Board of Revenue in respect thereof shall attach to the panchayat as if it had been specially named in the said Regulation, and the panchayat shall manage and superintend such endowment.

Power of
Board of
Revenue to
transfer or
resume
control of
endowments
and inams.

(b) The Board of Revenue may of its own motion, and shall on a direction from the Government, by notification, resume the management and superintendence of any endowment made over to a panchayat under clause (a) and upon such resumption, all the powers and duties attaching to the panchayat in respect of the endowment shall cease and determine.

(2) The Government may assign to a panchayat with its consent, a charitable inam resumed by the Government or any other authority, provided that the net income from such inam can be applied exclusively to any purpose to which the funds of such panchayat may be applied; and may revoke any assignment so made.

55. A panchayat may accept donations for, or trusts relating exclusively to, the furtherance of any purpose to which its funds may be applied.

Limitation
of power to
accepting
donations
and trusts.

56. (1) All public roads in any village (other than district roads and roads which are classified by the Government as national or State highways), shall vest in the panchayat together with all pavements, stones and other materials thereof, all works, materials and other things provided therefor, all sewers, drains, drainage works, tunnels and culverts, whether made at the cost of the panchayat fund or otherwise, in, alongside or under such roads, and all works, materials and things appertaining thereto.

Vesting of
public roads
in pancha-
yats.

(2) The Government may, by notification, exclude from the operation of this Act any such public road, sewer, drain, drainage work, tunnel or culvert, and may also modify or cancel such notification.

57. All rubbish, sewage, filth and other matter collected by a panchayat under this Act shall belong to it.

Collected
sewage, etc.,
to belong to
panchayat.

Vesting of communal property or income in panchayat.

58. Any property or income which by custom belongs to, or has been administered for the benefit of, the villagers in common, or the holders in common of village land generally or of lands of a particular description or of lands under a particular source of irrigation shall vest in the panchayat and be administered by it for the benefit of the villagers or holders aforesaid.

Power of panchayats to execute kudimaramat and levy fees or the purpose.

59. (1) Subject to such conditions and control as may be prescribed, the Government may transfer to any panchayat the protection and maintenance of any village irrigation work, the management of turns of irrigation, or the regulation of distribution of water from any irrigation work to the fields depending on it.

(2) The panchayat shall have power, subject to such restriction and control as may be prescribed, to execute kudimaramat in respect of any irrigation source in the village and to levy such fee and on such basis for the purposes thereof as may be prescribed :

Provided that nothing contained in this section shall be deemed to relieve the village community or any of its members of its or his liability under the Madras Compulsory Labour Act, 1858, in respect of any irrigation source in the village, in case the panchayat makes default in executing the kudimaramat in respect of that irrigation source.

Central Act
I of 1858.

Panchayat to regulate the use of certain porambokes in ryotwari tracts.

60. (1) The provisions of this section shall apply only in ryotwari tracts.

(2) The panchayat shall have power, subject to such restrictions and control as may be prescribed, to regulate the use of the following porambokes, namely, grazing grounds, threshing floors burning and burial grounds, cattle-stands, cart-stands and topes, provided the porambokes are at the disposal of the Government.

(3) The Collector after consulting the panchayat, may, by notification, exclude from the operation of this Act any poramboke referred to in sub-section (2), and may also modify or cancel such notification.

(4) The panchayat shall also have power, subject to such restrictions and control as may be prescribed, to regulate the use of any other poramboke which is at the disposal of the Government, if the panchayat is authorized in that behalf by an order of the Government.

(5) The panchayat may, subject to such restrictions and control as may be prescribed, plant trees on any poramboke the use of which is regulated by it under sub-section (2) or sub-section (4).

Panchayat to regulate the use of certain communal lands in estates governed by the Madras Estates Land Act, 1908.

61. (1) In estates governed by the Madras Estates Land Act, 1908, notwithstanding anything contained in that Act, the panchayat shall have power subject to such restrictions and control as may be prescribed—

Madras Act
I of 1908.

(a) to regulate the use of lands which are set apart for any of the purposes referred to in sub-clause (b) of clause (16) of section 3 of the said Act, namely, threshing floors, cattle-stands, village

sites and other lands situated in the village which are set apart for the common use of the villagers;

- (b) to exercise the power vested in the District Collector by section 20-A of the said Act, namely to direct that any land referred to in clause (a) which is no longer required for its original purpose shall be used for any other specified communal purpose, provided that the sanction of the District Collector is obtained therefor; and
- (c) to plant trees on any land the use of which is regulated by the panchayat under clause (a).

Nothing contained in clause (b) shall be deemed to affect in any way the operation of the provisos to sub-section (1) of the said section 20-A.

Madras Act I of 1908. (2) After an estate ceases to be governed by the Madras Estates Land Act, 1908, the provisions of sub-section (1) shall apply to the lands referred to in that sub-section, to such extent and with such modifications, as may be prescribed.

Central Act I of 1894. **62.** Any immovable property which any panchayat is authorized by this Act or any rules made thereunder to acquire may be acquired under the provisions of the Land Acquisition Act, 1894, and on payment of the compensation awarded under the said Act, in respect of such property and of any other charges incurred in acquiring it, the said property shall vest in the panchayat.

Immovable property required by panchayats may be acquired under the Land Acquisition Act, 1894.

CHAPTER IV

TAXATION AND FINANCE

63. (1) Every panchayat shall levy in the village a house-tax, a profession-tax and a vehicle tax.

Taxes which may be levied by panchayats.

(2) A duty shall also be levied in every village on certain transfers of property in accordance with the provisions of section 67.

(3) Subject to such rules as may be prescribed and with the sanction of the Inspector and subject to such restrictions and conditions, if any, as may be imposed by him either at the time of granting sanction or later, the panchayat may also levy in the village—

- (a) a land-cess at the rate of three pies in the rupee on the annual rent value of all occupied lands which are not occupied by, or adjacent and appurtenant to, buildings;
- (b) a tax on agricultural land for a specific purpose;
- (c) fees on any commercial crop bought and sold in the village, not being a crop on which fees are levied in the village by a market committee under section 11 of the Madras Commercial Crops Markets Act, 1933.

Madras Act XX of 1933.

Explanation.—For the purposes of this clause, ‘commercial crop’ shall have the same meaning as in section 2 (i-a) of the Madras Commercial Crops Markets Act, 1933. Madras Act XX of 1933.

(4) Clause (c) of sub-section (3) shall have effect subject to the provisions of Article 286 of the Constitution of India.

House-tax.

64. (1) The house-tax referred to in section 63, sub-section (1), shall be levied on all houses (other than huts) in the village on any one of the following bases, namely, (a) annual value, (b) capital value, or (c) such other bases as may be prescribed.

(2) The house-tax shall, subject to the prior payment of the land revenue, if any, due to the Government in respect of the site of the house, be a first charge upon the house and upon the movable property, if any, found within or upon the same and belonging to the person liable to such tax.

(3) The house-tax shall be levied every half-year at such rates as may be fixed by the panchayat, not being less than the minimum rates and not exceeding the maximum rates, prescribed in regard to the basis of levy adopted by the panchayat.

(4) The Government may make rules providing for—

- (i) the exemption of specified classes of houses from the tax;
- (ii) the manner of ascertaining the annual or capital value of houses or the categories into which they fall for the purposes of taxation;
- (iii) the persons who shall be liable to pay the tax and the giving of notices of transfer of houses;
- (iv) the grant of exemptions from the tax on the ground of poverty;
- (v) the grant of vacancy and other remissions;
- (vi) the circumstances in which, and the conditions subject to which, houses constructed, reconstructed or demolished, or situated in areas included in, or excluded from, the village, during any half-year, shall be liable or cease to be liable to the whole or any portion of the tax.

(5) If the occupier of a house pays the house-tax on behalf of the owner thereof, such occupier shall be entitled to recover the same from the owner and may deduct the same from the rent then or thereafter due by him to the owner.

Profession-tax.

65. (1) The profession-tax referred to in section 63, sub-section (1) shall, subject to such rules as may be prescribed, be levied every half-year in every village on—

- (i) every company which transacts business in such village for not less than sixty days in the aggregate in that half-year; and

(ii) every person who, in that half-year—

(a) exercises a profession, art or calling or transacts business or holds any appointment, public or private—

(i) within such village for not less than sixty days in the aggregate, or

(ii) without such village, but who resides in it for not less than sixty days in the aggregate, or

(b) resides in such village for not less than sixty days in the aggregate and is in receipt of any pension or income from investments.

(2) The profession-tax shall be levied at such rates as may be fixed by the panchayat, not being less than such minimum rates and not exceeding such maximum rates as may be prescribed.

(3) A person shall be chargeable under the class appropriate to his aggregate income from all the sources specified in sub-section (1) as being liable to the tax.

(4) If a company or person proves that it or he has paid the sum due on account of the profession-tax levied under this Act, or the companies or profession-tax levied under the Madras Act IV of 1919, Madras City Municipal Act, 1919, or the Madras District Municipalities Act, 1920, or any tax of the nature of a profession-tax imposed under the Cantonments Act, 1924, for the same half-year to any panchayat or municipal council or cantonment authority in the State of Madras, such company or person shall not be liable by reason merely of change of place of business, exercise of profession, art or calling, appointment or residence to pay to any other panchayat, municipal council or cantonment authority more than the difference between such sum and the amount to which it or he is otherwise liable for the profession or companies tax for the half-year under this Act or any of the aforesaid Acts.

(5) Nothing contained in this section shall be deemed to render a person who resides within the local limits of one local authority and exercises his profession, art or calling or transacts business or holds any appointment within the limits of any other local authority or authorities liable to profession-tax for more than the higher of the amounts of the tax leviable by any of the local authorities. In such a case the Government shall apportion the tax between the local authorities in such manner as they may deem fit and the decision of the Government shall be final:

Provided that where one of the local authorities concerned is a cantonment authority or the port authority of a major port, the decision of the Government shall be subject to the concurrence of the Central Government.

(6) The profession-tax leviable from a firm, association or joint Hindu family may be levied from any adult member of the firm, association or family.

(7) (a) If a company or person employs a servant or agent to represent it or him for the purpose of transacting business in any local area, such company or person shall be

deemed to transact business in the local area and such servant or agent shall be liable for the profession-tax in respect of the business of such company or person whether or not such servant or agent has power to make binding contracts on behalf of such company or person.

(b) Where one company or person is the agent of another company or person, the former company or person shall not be liable separately to the profession-tax on the same income as that of the principal.

Vehicle tax

66. The vehicle tax referred to in section 63, sub-section (1), shall, subject to such rules as may be prescribed including rules relating to exemptions and restrictions, be levied every half-year on all vehicles kept or used within the village at such rates as may be fixed by the panchayat not being less than the minimum rates and not exceeding the maximum rates prescribed.

Explanation.—In this section, ‘vehicle’ means a conveyance suitable for use on roads and includes any kind of tram car, carriage, cart, wagon, bicycle, tricycle, and rickshaw, but does not include a motor vehicle as defined in the Motor Vehicles Act, 1939. Central Act IV of 1939

Duty on transfers of property.

67. (1) The duty on transfers of property shall be levied—

- (a) in the form of a surcharge on the duty imposed by the Indian Stamp Act, 1899, as in force for the time being in the State of Madras, on every instrument of the description specified below, which relates to immovable property situated in the area under the jurisdiction of a panchayat; and Central Act II of 1899.
- (b) at such rate as may be fixed by the Government, not exceeding five per centum on the amount specified below against such instrument.

Description of instrument	Amount on which duty should be levied
(i) Sale of immovable property.	The amount or value of the consideration for the sale, as set forth in the instrument.
(ii) Exchange of immovable property.	The value of the property of the greatest value, as set forth in the instrument.
(iii) Gift of immovable property.	The value of the property as set forth in the instrument.
(iv) Mortgage with possession of immovable property.	The amount secured by the mortgage as set forth in the instrument.
(v) Lease in perpetuity of immovable property	An amount equal to one-sixth of the whole amount or value of the rents which would be paid or delivered in respect of the first fifty years of the lease, as set forth in the instrument.

(2) On the introduction of the duty aforesaid—

(a) section 27 of the said Indian Stamp Act shall be read as if it specifically required the particulars to be set forth separately in respect of property situated in the area under the jurisdiction of a panchayat and in respect of property situated outside such area;

(b) section 64 of the same Act shall be read as if it referred to the panchayat as well as the Government.

(3) The Government may make rules not inconsistent with this Act for regulating the collection of the duty, the payment thereof to the panchayat and the deduction of any expenses incurred by the Government in the collection thereof.

68. Subject to such restrictions and control as may be prescribed, a panchayat may write off any tax, fee or other amount whatsoever due to it, whether under a contract or otherwise, or any sum payable in connexion therewith, if in its opinion such tax, fee, amount or sum is irrecoverable; Power to write off irrecoverable amounts.

Provided that where the Collector or any of his subordinates is responsible for the collection of any tax, fee or other amount due to a panchayat, the power to write off such tax, fee or amount or any sum payable in connection therewith, on the ground of its being irrecoverable, shall be exercised by the Board of Revenue or subject to its control, by the Collector or any officer authorized by him.

69. Subject to such rules as may be prescribed, the executive authority shall have power to require the village headman having jurisdiction over the village or any part thereof to collect any tax or fee due to the panchayat on payment of such remuneration not exceeding 6 1/4 per cent. of the gross sum collected by the headman as the Collector may, by general or special order, determine. Power to require village headman to collect taxes and fees due to panchayats.

70. (1) All moneys received by the panchayat shall constitute a fund called the panchayat fund, and shall be applied and disposed of in accordance with the provisions of this Act and other laws: Panchayat fund.

Provided that the panchayat shall have power, subject to such rules as may be prescribed, to direct that the proceeds of any tax or additional tax levied under this Act shall be earmarked for the purpose of financing any specific public improvement. A separate account shall be kept of the receipts from every such tax or additional tax and the expenditure thereof.

(2) The receipts which shall be credited to the panchayat fund shall include—

(i) the house-tax, the profession-tax, the vehicle tax and any other tax or any cess or fee, levied under section 63 of this Act;

(ii) the proceeds of the duty on transfers of property levied under section 67 of this Act;

- (iii) one-fourth of the land-cess levied in the village under section 78 of the Madras District Boards Act, 1920; Madras Act XIV of 1920.
- (iv) the pilgrim tax levied in respect of the village under section 110 of the Madras District Boards Act, 1920, except where the occasion for pilgrimage is a festival classified as a district festival; Madras Act XIV of 1920.
- (v) any payments made to the panchayat by a market committee in pursuance of section 11, sub-section (3), of the Madras Commercial Crops Markets Act, 1933; Madras Act XX of 1933.
- (vi) the taxes and tolls levied in the village under sections 117 and 118 of the Madras Public Health Act, 1939; Madras Act III of 1939.
- (vii) the contribution paid by the district board on the scale fixed by the Government in respect of markets in the village classified as district markets and in respect of ferries under the management of the district board;
- (viii) fees for the temporary occupation of village-sites, roads and other similar public places or parts thereof in the village;
- (ix) fees levied by the panchayat in pursuance of any provision in this Act or any rule or order made thereunder;
- (x) the contribution, if any, paid by the district board on the scale fixed by the Government for the opening and maintenance of elementary schools in the village;
- (xi) income from endowments and trusts under the management of the panchayat;
- (xii) the net assessment on service inams which are resumed by the Government after the commencement of this Act;
- (xiii) income derived from village fisheries;
- (xiv) income derived from ferries under the management of the panchayat;
- (xv) unclaimed deposits and other forfeitures;
- (xvi) a sum equivalent to the seigniorage fees collected by the Government every year from persons permitted to quarry for road materials in the village;
- (xvii) all income derived from porambokes the user of which is vested in the panchayat;
- (xviii) where the village is in a ryotwari tract, all income derived from trees standing on porambokes although the user of the porambokes is not vested in the panchayat;
- (xix) income from leases of Government property obtained by the panchayat;
- (xx) a sum equivalent to nine-tenths of the gross income derived by the Government every year from fines imposed by Magistrates in respect of

offences committed in the village under this Act or any rule or bye-law made thereunder or any other provision of law which is prescribed in this behalf;

- xxi) grants received from the Government;
- (xxii) all sums other than those enumerated above which arise out of, or are received in aid of, or for expenditure on, any institutions or services maintained or financed from the panchayat fund or managed by the panchayat.

71. The Government shall set apart every year a sum Grants by not being less than twelve and a half per cent. of the total Government land revenue (including water-cess) collected in the State to Class II panchayats. during that year and distribute such sum in the prescribed manner as grants to Class II panchayats on the basis of their population:

¹[Provided that for the year in which the provisions of this Act are brought into force and for the next succeeding year, the Government may set apart under this section such sum as they deem fit not being more than twelve and a half per cent. of the total land revenue (including water-cess) collected in the State during that year :

Provided further that a Class II panchayat constituted for the first time after the 31st day of December in any year, shall not be entitled to any grant under this section in respect of that year.

Explanation.—In computing the total land revenue for the purposes of this section, the revenue derived by the Government from estates which have been notified under section 1, sub-section (4), of the Madras Estates (Abolition and Conversion into Ryotwari) Act, 1948, over and above the peshkash, quit-rent, jodi or other amount of a like nature which would have been due to the Government from the landholders if the estates had not been so notified, shall not be taken into account so long as the revenue so derived is, in the opinion of the Government, required for meeting the compensation payable under that Act in respect of those estates.]

Madras Act
XXVI of
1948.

72. (1) The purposes to which the panchayat fund may Expenditure be applied include all objects expressly declared obligatory from pan- or discretionary by this Act or any rules made thereunder or chayat fund. by any other laws or rules and the fund shall be applicable thereto within the village subject to such rules or special orders as the Government may prescribe or issue and shall, subject as aforesaid, be applicable to such purposes outside the village if the expenditure is authorized by this Act or specially sanctioned by the Inspector.

(2) (a) It shall be the duty of every panchayat to provide for the payment of—

- (i) any amount falling due on any loans contracted by it;

¹ Ins. by s. 2 of Act XII of 1951.

- (ii) the election expenses including the cost of the preparation and revision of the electoral roll, the conduct of elections to the panchayat, and the maintenance of the election establishment;

Explanation.—The cost of maintenance of the election establishment shall include the pay, pension and leave allowances, if any, of the officers and servants of the Government or of any other authority, employed in the preparation and revision of the electoral roll and in the conduct of the elections;

- (iii) the salaries and allowances and the pensions, pensionary contributions and provident fund contributions of its officers and servants;
- (iv) sums due under any decree or order of a Court; and
- (v) any other expenses rendered obligatory by or under this Act or any other law.

(b) The Government shall determine every year the amount of the election expenses referred to in sub-clause (ii) of clause (a) and their determination shall be final and binding on the panchayat. Such amount shall have priority over all the other charges except charges for the service of authorized loans including the loans and advances referred to in section 76 and the expenses specified in sections 44 and 46 (2).

(3) A panchayat may, with the sanction of the Government, contribute to any fund for the defence of India.

(4) A panchayat may, with the sanction of the Inspector, also—

- (i) contribute towards the expenses of any public exhibition, ceremony or entertainment in the village;
- (ii) contribute to any charitable fund, or to the funds of any institution for the relief of the poor or the treatment of disease or infirmity or the reception of diseased or infirm persons or the investigation of the causes of disease; and
- (iii) defray any other extraordinary charges.

Preparation
and sanction
of budgets.

73. (1) The executive authority shall in each year frame and place before the panchayat a budget showing the probable receipts and expenditure during the following year and the panchayat shall sanction the budget with such modifications, if any, as it thinks fit.

(2) The budget of a panchayat shall, after being so sanctioned, be submitted on or before such date and to such officer as may be prescribed, and if he is satisfied that adequate provision has not been made therein for the performance of any necessary service or services, he shall have power to modify the budget in such manner as may be necessary to secure such provision.

(3) If, in the course of a year, a panchayat finds it necessary to alter the figures shown in the budget with regard to its receipts or to the distribution of the amounts to be expended on the different services undertaken by it, a supplemental or revised budget may be framed, sanctioned, submitted and modified in the manner provided in sub-sections (1) and (2), provided that no such alteration shall be given effect to except with the consent of the prescribed officer.

Central Act
XLV of
1860.

74. (1) The Government shall appoint auditors of the Appointment of auditors. accounts of the receipts and expenditure of the panchayat fund. Such auditors shall be deemed to be "public servants" within the meaning of section 21 of the Indian Penal Code.

(2) No contribution shall be recovered by the Government from the panchayat towards the pay and allowances of such auditors or towards any other expenditure involved in the audit of the accounts of the panchayat.

75. If the expenditure incurred by the Government or by any other panchayat or the district board or by any other local authority in the State for any purpose authorized by or under this Act, is such as to benefit the inhabitants of the village, the panchayat may, with the sanction of the Inspector, and shall, if so directed by him make a contribution towards such expenditure. Contribution to expenditure by other local authorities.

Central Act
IX of 1914.

76. (1) Notwithstanding anything contained in the Recovery of loans and advances made by Government. Local Authorities Loans Act, 1914, the Government may—

(a) by order direct any person having custody of the panchayat fund to pay to them in priority to any other charges against such fund, except charges for the service of authorized loans, any loan or advance made by them to the panchayat for any purpose to which its funds may be applied under this Act.

(b) recover any such loan or advance by suit.

(2) The person to whom the order referred to in clause (a) of sub-section (1) is addressed shall be bound to comply with such order.

CHAPTER V

PUBLIC SAFETY, CONVENIENCE AND HEALTH

Public water-courses, springs, etc.

77. (1) All public water-courses, springs, reservoirs, tanks, cisterns, fountains, wells, stand-pipes and other water-works (including those used by the public to such an extent as to give a prescriptive right to their use) whether existing at the commencement of this Act or afterwards made, laid or erected, and whether made, laid or erected at the cost of the panchayat or otherwise, and also any adjacent land (not being private property) appertaining thereto, shall vest in the panchayat and be subject to its control: Vesting of water-works in panchayats.

Provided that nothing contained in this sub-section shall apply to any work which is, or is connected with, a work of irrigation or to any adjacent land appertaining to any such work.

(2) The Government may, by notification, define or limit such control or may assume the administration of any public source of water-supply and public land adjacent and appertaining thereto after consulting the panchayat and giving due regard to its objections, if any.

Contributions for Sanitary Arrangements

Contributions from persons having control over places of pilgrimage, etc.

78. Where a mosque, temple, mutt or any place of religious worship or instruction or any place which is used for holding fairs, or festivals or for other like purposes is situated within the limits of a village or in the neighbourhood thereof and attracts either throughout the year or on particular occasions a large number of persons, any special arrangements necessary for public health, safety or convenience, whether permanent or temporary, shall be made by the panchayat; but the Government may after consulting the trustee or other person having control over such place require him to make such recurring or non-recurring contribution to the funds of the panchayat as they may determine.

Roads

Prohibition against obstructions in or over public roads, etc.

79. No person shall, except as permitted by rules made under this Act and except in accordance with the conditions imposed by any licence made requisite by such rules—

- (a) build any wall or erect any fence or other obstruction or projection or make any encroachment whatsoever whether permanent or temporary, in or over any public road;
- (b) make any hole or deposit any matter in or upon any public road;
- (c) work a quarry in or remove stone, earth or other material from any place within twenty yards of a public road or of other immovable property vesting in or belonging to a panchayat, provided that nothing in this clause shall be deemed to apply to any work which in the opinion of the Inspector, is done in connexion with a *bona fide* agricultural operation;
- (d) erect any building over any sewer or drain or any part thereof;
- (e) plant any tree on any public road or other property vesting in or belonging to a panchayat; or
- (f) fell, remove, destroy, lop or strip bark, leaves or fruits from, or otherwise damage, any tree which is growing on any such public road or other property or on any poramboke or land, the use of which is regulated by a panchayat under section 60 or section 61 and the right to which has not been established by such person as vesting in or belonging to him.

Markets

80. (1) The panchayat may provide places for use as ^{Public} public markets and, with the sanction of the Inspector, close ^{markets.} any such market or part thereof.

(2) Subject to such rules as may be prescribed, the panchayat may levy any one or more of the following fees in any public market at such rates, not exceeding the maximum rates, if any, prescribed in that behalf as the panchayat may think fit:—

- (a) fees for the use of, or for the right to expose goods for sale in, such market;
- (b) fees for the use of shops, stalls, pens or stands in such market;
- (c) fees on vehicles (including motor vehicles as defined in the Motor Vehicles Act, 1939) or pack-animals bringing, or on persons carrying, any goods for sale in such market;
- (d) fees on animals brought for sale into or sold in such market;
- (e) licence fees on brokers, commission agents, weighmen and measurers practising their calling in such market.

Central Act
IV of 1939.

81. (1) No person shall open a new private market after ^{Private} the commencement of this Act, or continue to keep open a ^{markets.} private market, after the commencement of such year as the Government may, by notification, appoint in this behalf:

Provided that nothing in this sub-section shall apply to any private market, existing on the date of publication of the notification aforesaid, if the income derived from such market after deducting therefrom the cost of collection and management and such other sums as may be prescribed, has been, and continues to be, utilized solely for educational, charitable and religious purposes.

(2) If any question arises as to whether any market falls within the scope of the proviso to sub-section (1) or not, the panchayat shall make a reference thereon to the Government and their decision shall be final.

(3) In lieu of each of the private markets closed in pursuance of sub-section (1), the panchayat shall provide a public market.

82. (1) No person shall keep open a private market of the ^{Licensing of} nature referred to in the proviso to sub-section (1) of section 81 unless he has obtained a licence from the panchayat ^{excepted} to do so. Such licence shall be renewed every year. ^{private} ^{markets.}

(2) (a) The panchayat shall grant the licence applied for, subject to such conditions as it may think fit as to supervision and inspection, sanitation and water-supply, weights and measures to be used, rents and fees to be charged and such other matters as may be prescribed.

(b) The panchayat may modify the conditions of the licence to take effect from a specified date.

(c) The panchayat may at any time suspend or cancel any licence granted under clause (a) for breach of the conditions thereof.

(d) Any person aggrieved by an order of the panchayat under clause (a), (b) or (c) may appeal against such order to the Inspector who may, if he thinks fit, suspend the execution of the order pending the disposal of the appeal.

(3) (a) Any person claiming to levy in a private market lawfully established prior to the coming into force of the Madras Local Boards Act, 1884, fees of the nature specified in section 80, sub-section (2), shall apply to the Inspector for a certificate recognizing his right in that behalf, and the Inspector shall pass orders on such application after giving due notice to the panchayat and considering any representations made by it. Madras Act V of 1884.

(b) Any person aggrieved by an order of the Inspector refusing to grant a certificate under clause (a) may, within six months from the date of such order, institute a suit to establish the right claimed by him, and subject to the result of such suit, the Inspector's order shall be final.

(4) When a licence granted under sub-section (2) does not permit the levy of any fees, it shall be granted free of charge; but when such permission is given, a fee not exceeding 15 per cent. of the gross income of the owner from the market in the preceding year shall be charged by the panchayat for such licence.

(5) The panchayat or any officer duly authorized by it may close a private market which is unlicensed or the licence for which has been suspended or cancelled, or which is held or kept open contrary to the provisions of this Act.

Decision of disputes as to whether places are markets.

Prohibition of sale in unlicensed private markets, etc.

83. If any question arises as to whether any place is a market or not, the panchayat shall make a reference thereon to the Government and their decision shall be final.

84. No person shall sell or expose for sale any animal or article—

(a) in any public or licensed private market without the permission of the executive authority or licensee, as the case may be, or of any person authorized by him, or

(b) in any unlicensed private market.

Prohibition against sale in public roads.

85. The executive authority may, with the sanction of the panchayat, prohibit by public notice or licence or regulate the sale or exposure for sale of any animals or articles in or upon any public road or place or part thereof.

Classification of markets.

86. The Government shall have power to classify public and private markets situated in a village as district markets and panchayat markets and provide for the control of any such market, and for the apportionment of the income derived

therefrom between the district board and the panchayat or the payment of a contribution in respect thereof to the panchayat or the district board, as the case may be.

In the case of markets classified as district markets, the panchayat and its executive authority shall not exercise any of the powers conferred on them by sections 80 to 85.

Public Halting Places

87. Subject to such rules as may be prescribed, the panchayat may—

- (a) provide public landing places, halting places and cart-stands (which last expression includes stands for animals and vehicles of any description including motor vehicles) and levy fees for their use; and
- (b) where any such place or stand has been provided, prohibit the use for the same purpose by any person, within such distance thereof of any public place or the sides of any public road as the panchayat may, subject to the control of the Inspector, specify.

Public land
ing places
and cart-
stands, etc.

88. (1) No person shall open a new private cart-stand or continue to keep open a private cart-stand, unless he obtains from the panchayat a licence to do so. Such licence shall be renewed every year.

Private
cart-stands.

(2) The panchayat shall, as regards private cart-stands already lawfully established, and may at its discretion as regards new private cart-stands, grant the licence applied for, subject to such conditions as the panchayat may think fit as to supervision and inspection, conservancy and such other matters as may be prescribed; or the panchayat may refuse to grant such licence for any new cart-stand.

(3) The panchayat may modify the conditions of the licence to take effect from a specified date.

(4) The panchayat may at any time suspend or cancel any licence granted under sub-section (2) for breach of the conditions thereof.

(5) The panchayat may levy on every grant or renewal of a licence under this section a fee not exceeding two hundred rupees.

Slaughter-houses

89. A panchayat may provide places for use as public slaughter-houses and charge rents and fees for their use.

Public
slaughter-
houses.

90. The Government shall have power to make rules for—

- (a) prohibiting or regulating the slaughter, cutting up or skinning of animals specified in the rules on all occasions not excepted therein, at places other than public slaughter-houses;
- (b) licensing persons to slaughter animals specified in the rules for purposes of sale to the public; and

Prohibition
or regulation
of the use
of places for
slaughtering
animals and
the licensing
of slaugh-
terers.

- (c) the inspection of slaughter-houses and of the meat therein and the payment of remuneration to the officers employed for such inspection.

Industries and Factories

Purposes for which places may not be used without a licence.

91. The panchayat may with the previous approval of the prescribed authority notify that no place within the limits of the village shall be used for any of the purposes specified in the rules made in this behalf, being purposes which, in the opinion of the Government, are likely to be offensive or dangerous to human life or health or property, without a licence issued by the executive authority and except in accordance with the conditions specified in such licence:

Provided that no such notification shall take effect until sixty days from the date of its publication.

Permission for the construction of factories and the installation of machinery.

92. No person shall, without the permission of the panchayat and except in accordance with the conditions specified in such permission,—

- (a) construct or establish any factory, workshop or work-place in which it is proposed to employ steam power, water power or other mechanical power or electrical power; or
- (b) instal in any premises, any machinery or manufacturing plant driven by any power as aforesaid, not being machinery or manufacturing plant exempted by the rules.

Power of Government to make rules in respect of the grant and renewal of licences and permissions.

93. (1) The Government may make rules—

- (a) prohibiting or regulating the grant or renewal of licences under section 91 and the period for which such licences shall be valid;
- (b) as to the time within which applications for such licences or renewals thereof shall be made; and
- (c) prohibiting or regulating the grant of permissions under section 92.

(2) Rules made under clause (c) of sub-section (1) may empower the panchayat to set apart specified areas in the village for industrial purposes and provide for the refusal of permissions under section 92 in respect of any factory, workshop, workplace or premises outside such areas and also, subject to the sanction of the prescribed authority, for the removal to such areas, of any factory, workshop or workplace which has been already established at any place, or any machinery which has already been installed in any premises, situated outside such areas:

Provided that no such rule shall authorize the removal of any factory, workshop or workplace or machinery installed in any premises, in the occupation or under the control of the Central or the State Government or of a market committee established under the Madras Commercial Crops Markets Act, 1933.

(3) The Government may either generally or in any particular case, make such order or give such directions as they may deem fit in respect of any action taken or omitted to be taken under section 91 or section 92.

Application of the Places of Public Resort Act, 1888

Madras Act
II of 1888.

94. Notwithstanding anything contained in the Places of Modification Public Resort Act, 1888, when the Government extend that of the Places Act to any village or part thereof—

of Public
Resort Ac
1888.

- (a) the authority to whom application shall be made for a licence under that Act in respect of any place or building to be used exclusively for purposes other than the holding of cinematograph exhibitions, and who may grant or refuse such licence, shall be the executive authority; and
- (b) the appeal from the order of the executive authority granting, refusing, revoking or suspending a licence under that Act shall lie to the panchayat.

CHAPTER VI

GENERAL AND MISCELLANEOUS

Numbering of Buildings

95. (1) In any area to which this Act applies, such authority as may be prescribed in this behalf, may cause a number to be affixed to the side or outer door of any building or to some place at the entrance of the premises.

Numbering of
buildings.

(2) No person shall, without lawful authority, destroy, pull down or deface any such number, or any number assigned to any building in any such area in connection with the preparation of electoral rolls on the basis of adult franchise during the year 1948 or 1949.

(3) When a number has been affixed under sub-section (1), the owner of the building shall be bound to maintain such number and to replace it if removed or defaced, and if he fails to do so, the authority referred to in sub-section (1) may by notice require him to replace it.

Licences and Permissions

96. (1) Save as otherwise expressly provided in or may be prescribed under this Act, every application for any licence or permission under this Act or any rule, bye-law or regulation made thereunder, or for the renewal thereof, shall be made not less than thirty and not more than ninety days before the earliest date with effect from which, or the commencement of the period (being a year or such less period as is mentioned in the application) for which the licence or permission is required.

General provisions re-
garding licences and permissions.

(2) Save as aforesaid, for every such licence or permission, fees may be charged on such units and at such rates as may be fixed by the panchayat, provided that the rates shall not exceed the maxima, if any, prescribed.

(3) Save as aforesaid, if orders on an application for any such licence or permission are not communicated to the applicant within thirty days or such longer period as may be prescribed in any class of cases after the receipt of the application by the executive authority, the application shall be deemed to have been allowed for the period, if any, for which it would have been ordinarily allowed and subject to the law, rules, bye-laws and regulations and all conditions ordinarily imposed.

(4) The acceptance of the pre-payment of the fee for any such licence or permission shall not entitle the person making such pre-payment to the licence or permission, but only to a refund of the fee in case of refusal of the licence or permission.

(5) If an act for which any such licence or permission is necessary is done without such licence or permission, or in a manner inconsistent with the terms of the licence or permission obtained, then—

(a) the executive authority may by notice require the person so doing such act to alter, remove, or as far as practicable, restore to its original state, the whole, or any part of any property, movable or immovable, public or private, affected thereby, within a time to be specified in the notice; and further,

(b) if no penalty has been specially provided in this Act for so doing such act, the person so doing it shall be punishable with fine not exceeding fifty rupees for every such offence.

(6) Whenever any person is convicted of an offence in respect of the failure to obtain any such licence or permission, the Magistrate shall, in addition to any fine which may be imposed, recover summarily and pay over to the panchayat the amount of the fee chargeable for the licence or permission, and may, in his discretion, also recover summarily and pay over to the panchayat such amount, if any, as he may fix as the costs of the prosecution.

Explanation.—The recovery of the fee for a licence or permission under this sub-section shall not entitle the person convicted to the licence or permission.

Government
and market
committees
not to obtain
licences and
permissions.

97. Nothing in this Act or in any rule, bye-law or regulation made thereunder shall be construed as requiring the taking out of any licence or the obtaining of any permission under this Act or any such rule, bye-law or regulation in respect of any place in the occupation or under the control of the Central or the State Government or of a market committee established under the Madras Commercial Crops Markets Act, 1933, or in respect of any property of the Central or the State Government or of any property belonging to such market committee.

Madras Act
XX of 1933.

Power to enforce Notices, Orders, etc.

98. (1) Whenever by any notice, requisition or order Time for under this Act, or under any rule, bye-law or regulation made complying with notice, order, etc., and power to thereunder, any person is required to execute any work, to take any measures or to do anything, a reasonable time shall be named in such notice, requisition or order within which the work shall be executed, the measures taken or the thing done. default.

(2) If such notice, requisition or order is not complied with within the time so named—

- (a) the executive authority may cause such work to be executed, or may take any measures or do anything which may, in his opinion, be necessary for giving due effect to the notice, requisition or order; and further,
- (b) if no penalty has been specially provided in this Act for failure to comply with such notice, requisition or order, the said person shall be punishable with fine not exceeding fifty rupees for every such offence.

Powers of Entry and Inspection

99. (1) Subject to such restrictions and conditions as may be prescribed, the executive authority or any person authorized by him may enter on or into any place, building or land, with or without notice and with or without assistants or workmen in order— Powers of entry and inspection.

- (a) to make any inquiry, inspection, test, examination, survey, measurement or valuation or to execute any other work, which is authorized by the provisions of this Act or of any rule, bye-law, regulation or order made under it or which it is necessary to make or execute for any of the purposes of this Act or in pursuance of any of the said provisions, or
- (b) to satisfy himself that nothing is being done in such place, building or land for which a licence or permission is required under any of the said provisions, without such licence or permission or otherwise than in conformity with the terms of the licence or permission obtained.

(2) No claim shall lie against any person for any damage or inconvenience necessarily caused by the exercise of powers under sub-section (1) or of any force necessary for effecting an entrance under that sub-section.

100. The executive authority or any person authorized by him may examine and test the weights and measures used in the markets and shops in the village with a view to the prevention and punishment of offences relating to such weights and measures under Chapter XIII of the Indian Penal Code. Testing of weights and measures.

Central Act
XLV of 1860.

101. (1) The executive authority may, by an order in writing, require the headman or karnam or both of any revenue village comprised within the jurisdiction of the panchayat, to furnish him with information on any matter men and karnams. Power to call for information from village headmen and karnams.

falling within such categories as may be prescribed in respect of such village or any part thereof or any person or property therein.

(2) The order shall specify the period within which it may be complied with but the executive authority may, from time to time, extend such period.

Limitation

Limitation
for recovery
of dues.

102. No distraint shall be made, no suit shall be instituted and no prosecution shall be commenced in respect of any tax or other sum due to a panchayat under this Act or any rule, bye-law, regulation or order made under it after the expiration of a period of three years from the date on which distraint might first have been made, a suit might first have been instituted, or prosecution might first have been commenced, as the case may be, in respect of such tax or sum.

Prosecutions, Suits, etc.

Persons
empowered
to prosecute.

103. Save as otherwise expressly provided in this Act, no person shall be tried for any offence against this Act or any rule or bye-law made there under unless complaint is made within three months of the commission of the offence by the Police, the executive authority or a person expressly authorized in this behalf by the panchayat or executive authority; but nothing herein shall affect the provisions of the Code of Criminal Procedure, 1898, in regard to the power of certain Magistrates to take cognizance of offences upon information received or upon their own knowledge or suspicion:

Provided that failure to take out a licence or obtain permission under this Act shall, for the purposes of this section, be deemed to be a continuing offence until the expiration of the period, if any, for which the licence or permission is required and if no period is specified, complaint may be made at any time within twelve months from the commencement of the offence.

Composition
of offences.

104. The executive authority may, subject to such restrictions and control, as may be prescribed, compound any offence against this Act or any rule or bye-law made thereunder, which may by rules be declared compoundable.

Prosecutions
and composi-
tions to be
reported to
panchayat.

105. Every prosecution instituted or offence compounded by the executive authority shall be reported by him to the panchayat at its next meeting.

Sanction for
prosecution
of president
or members
of a pancha-
yat.

106. When the president, executive authority or any member is accused of any offence alleged to have been committed by him while acting or purporting to act in the discharge of his official duty, no Court shall take cognizance of such offence except with the previous sanction of the Government.

Notice of
action
against
panchayat,
etc

107. (1) Subject to the provisions of section 108, no suit or other legal proceeding shall be brought against any panchayat or its president or executive authority or any member, officer or servant thereof or against any person

acting under the direction of such panchayat, president, executive authority, member, officer or servant, in respect of any act done or purporting to be done under this Act or in respect of any alleged neglect or default in the execution of this Act or any rule, bye-law, regulation or order made under it, until the expiration of two months next after notice in writing, stating the cause of action, the nature of the relief sought, the amount of compensation claimed and the name and place of residence of the intended plaintiff has been left at the office of the panchayat, and if the proceeding is intended to be brought against any such president, executive authority, member, officer, servant or person, also delivered to him or left at his place of residence; and unless such notice be proved, the Court shall find for the defendant.

(2) Every such proceeding shall, unless it is a proceeding or the recovery of immovable property or for a declaration of title thereto, be commenced within six months after the date on which the cause of action arose or in case of a continuing injury or damage, during such continuance or within six months after the ceasing thereof.

(3) If any panchayat or person to whom notice is given under sub-section (1) tenders amends to the plaintiff before the proceeding is commenced and if the plaintiff does not in such proceeding recover more than the amount so tendered, he shall not recover any costs incurred by him after such tender; and the plaintiff shall also pay all costs incurred by the defendant after such tender.

108. No suit or other legal proceeding shall be brought against the president, executive authority or any member, officer or servant of a panchayat, or any person acting under the direction of a panchayat or of such president, executive authority, member, officer or servant, in respect of any act done or purporting to be done under this Act or in respect of any alleged neglect or default on his part in the execution of this Act, or any rule, bye-law, regulation or order made under it, if such act was done or such neglect or default occurred in good faith; but any such proceeding shall, so far as it is maintainable in a Court, be brought against the panchayat except in the case of suits brought under section 110.

Protection of president and officers acting in good faith.

Central Act
V of 1938.

109. Notwithstanding anything contained in the Code of Civil Procedure, 1908, or in any other law for the time being in force, no Court shall grant any permanent or temporary injunction or make any *interim* order restraining any proceeding which is being or about to be taken under this Act for the preparation or publication of any electoral roll or for the conduct of any election.

Injunctions not to be granted in election proceedings.

110. (1) The president, executive authority and every member of a panchayat shall be liable for the loss, waste or misapplication of any money or other property owned by or vested in the panchayat if such loss, waste or misapplication is a direct consequence of his neglect or misconduct; and a suit for compensation may be instituted against him in any Court of competent jurisdiction by the panchayat with the previous sanction of the Inspector.

Liability of the president, executive authority and members for loss, waste or misapplication of property.

(2) Every such suit shall be commenced within three years after the date on which the cause of action arose.

**Assessments,
etc., not to be
impeached.**

III. (1) No assessment or demand made, and no charge imposed, under the authority of this Act shall be impeached or affected by reason of any clerical error or by reason of any mistake (a) in respect of the name, residence, place of business or occupation of any person, or (b) in the description of any property or thing, or (c) in respect of the amount assessed, demanded or charged, provided that the provisions of this Act have in substance and effect been complied with. And no proceedings under this Act shall, merely for defect in form, be quashed or set aside by any Court of Justice.

(2) No suit shall be brought in any Court to recover any sum of money collected under the authority of this Act or to recover damages on account of any assessment or collection of money made under the said authority:

Provided that the provisions of this Act have in substance and effect been complied with.

(3) No distraint or sale under this Act shall be deemed unlawful, nor shall any person making the same be deemed a trespasser, on account of any error, defect, or want of form in the bill, notice, schedule, form, summons, notice of demand, warrant of distraint, inventory, or other proceeding relating thereto, if the provisions of this Act, and of the rules and bye-laws made thereunder have in substance and effect been complied with:

Provided that every person aggrieved by any irregularity may recover satisfaction for any special damage sustained by him.

CHAPTER VII

RULES, BYE-LAWS AND PENALTIES

Rules

**Power of
Government
to make rules.**

112. (1) The Government shall, in addition to the rule-making powers conferred on them by any other provisions contained in this Act, have power to make rules generally to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, the Government may make rules—

- (i) as to all matters relating to electoral rolls or elections, not expressly provided for in this Act, including deposits to be made by candidates standing for election and the conditions under which such deposits may be forfeited, and the conduct of inquiries and the decision of disputes relating to electoral rolls or elections;
- (ii) as to the resignations of presidents, vice-presidents and members, and the dates on which such resignations shall take effect;
- (iii) as to the interpellation of the president by the * members and the moving of resolutions at meetings;

- (iv) as to the constitution of committees of panchayats, the inclusion of outsiders therein, and the delegation of functions to such committees;
- (v) as to the delegation of any function of a panchayat to the president, member, any officer of the panchayat or any servant of the Central or State Government;
- (vi) for the lodging and investment of the moneys of the panchayat and for the manner in which such moneys may be drawn upon;
- (vii) as to the transfer of allotments entered in the sanctioned budget of a panchayat from one head to another;
- (viii) as to the estimates of receipts and expenditure, returns, statements and reports to be submitted by panchayats;
- (ix) as to the preparation of plans and estimates for works and the power of panchayats and of servants of the Central or State Government to accord professional or administrative sanction to estimates;
- (x) as to the accounts to be kept by panchayats, the audit and publication of such accounts and the conditions under which rate-payers may appear before auditors, inspect books and accounts, and take exception to items entered or omitted;
- (xi) as to the powers of auditors to disallow and surcharge items, appeals against orders of disallowance or surcharge, and the recovery of sums disallowed or surcharged;
- (xii) as to the powers of auditors, inspecting and superintending officers and officers authorized to hold inquiries, to summon and examine witnesses and to compel the production of documents and all other matters connected with audit, inspection and superintendence;
- (xiii) as to the conditions on which property may be acquired by a panchayat, or on which property vested in or belonging to a panchayat may be transferred by sale, mortgage, lease, exchange or otherwise;
- (xiv) as to the conditions on which and the mode in which contracts may be made by or on behalf of panchayats;
- (xv) as to the assessment of taxes under this Act and the revision of, and appeals against, assessments;
- (xvi) as to the acceptance in lieu of any tax due under this Act of any service by way of labour, cartage or otherwise;

- (xvii) as to the realization of any tax or other sum due to a panchayat under this Act or any other law or any rules or bye-laws, whether by distraint and sale of movable property, by prosecution before a Magistrate, by a suit, or otherwise;
- (xviii) as to the realization of fees due in respect of the use of cart-stands and the like, whether by the seizure and sale of the vehicle or animal concerned or any part of its burden, or otherwise;
- (xix) as to the form and contents of licences, permissions and notices granted or issued under this Act, the manner of their issue or the method of their service, and the modification, suspension or cancellation thereof;
- (xx) as to the powers of executive authorities to call for information on any matter, to summon and examine witnesses, and to compel the production of documents;
- (xxi) for the use of the facsimiles of the signatures of the executive authorities and officers of panchayats;
- (xxii) as to the grant to the public of copies of any proceeding or record of the panchayat, not relating to any matter classified as confidential by the Government or any authority empowered by them, and the fees to be levied for the grant of such copies;
- (xxiii) as to the opening, maintenance, management and supervision of elementary schools;
- (xxiv) prohibiting or regulating the use for any specified purposes, of any public spring, tank, well or watercourse or of any private spring, tank, well or watercourse, with the consent of its owner, or without such consent;
- (xxv) regulating contracts between the panchayat and the owners or occupiers of private premises for the removal therefrom of rubbish or filth, or any kind of rubbish or filth;
- (xxvi) as to the provision of burial and burning grounds; the licensing of private burial and burning grounds; the regulation of the use of all grounds so provided or licensed; the closing of any such grounds; and the prohibition of the disposal of corpses except in such grounds or other permitted places;
- (xxvii) as to the licensing of pigs and dogs and the destruction of unlicensed pigs and dogs;
- (xxviii) as to the regulation or restriction of building and the use of sites for building;

- (xxix) for the removal of encroachments of any description from public roads vesting in panchayats and the repair of any damage caused to such roads by the person causing the damage or at his expense;
- (xxx) for the determination of any claim to trees growing on public roads or other property vesting in or belonging to panchayats or on porambokes or, on lands, the use of which is regulated by them under section 60 or section 61; and for the presumptions to be drawn as regards the ownership of such trees;
- (xxxi) as to the imposition and recovery of penalties for the unauthorized occupation of public roads or other land vesting in or belonging to panchayats and the assessment and recovery of compensation for any damage caused by such occupation;
- (xxxii) as to the powers which may be exercised by the panchayat or the executive authority in respect of any public or private market or the user thereof, and the enforcement of any orders issued in pursuance of such powers; and as to the prohibition of the sale or purchase of any commercial crop in any such market within any area notified in respect of such crop under the Madras Commercial Crops Markets Act, 1933;
- (xxxiii) for compelling owners of cattle to stall them in cattle-sheds provided by the panchayat and the fees leviable in respect thereof;
- (xxxiv) as to the disposal of household and farmyard waste in the village, the acquisition of lands by the panchayat for laying out plots for digging pits in which such waste may be thrown, the assignment of any of those plots to persons in the village and the conditions subject to which such assignment may be made, including the rent to be charged;
- (xxxv) as to the duties to be discharged by village officers in relation to panchayats and their executive authorities;
- (xxxvi) as to appeals against orders (including orders granting or refusing licences or permissions) passed under this Act, and the time within which appeals whether allowed by this Act or by rules or otherwise should be presented;
- (xxxvii) as to the classification of public roads, fairs and festivals, choultries, dispensaries and libraries, as appertaining to the district board or the panchayat;
- (xxxviii) for regulating the sharing between local authorities in the State of the proceeds of any tax or income levied or obtained under this or any other Act;

(xxxix) for the decision of disputes between two or more local authorities of which one is a panchayat;

(xl) as to the class of Magistrates by whom offences against this Act shall be tried;

(xli) as to the accounts to be kept by owners, occupiers and farmers of private markets and the audit and inspection of such accounts;

(xlii) as to the manner of publication of any notifications or notices to the public under this Act.

Penalties for breach of rules.

113. (1) In making any rule under this Act, the Government may provide that a breach thereof shall be punishable with fine which may extend to one hundred rupees, or in case of a continuing breach, with fine not exceeding fifteen rupees for every day during which the breach continues after conviction for the first breach.

(2) The power to make rules under this Act shall, except on the first occasion of the exercise thereof, be subject to the condition of previous publication.

(3) All rules made under this Act shall be published in the *Fort St. George Gazette* and upon such publication, shall have effect as if enacted in this Act.

Bye-laws

Bye-laws and penalties for their breach.

114. (1) Subject to the provisions of this Act and of any other law and to such rules as may be prescribed, a panchayat may, with the approval of the Inspector, make bye-laws for carrying out any of the purposes for which it is constituted.

(2) In making a bye-law, the panchayat may provide that any person who commits a breach thereof shall be liable to pay by way of penalty such sum as may be fixed by the panchayat not exceeding fifteen rupees or, in case of a continuing breach, not exceeding five rupees for every day during which the breach continues after a penalty has been levied for the first breach.

(3) The Government shall have power to make rules regarding the procedure for the making of bye-laws, the publication thereof, and the date on which they shall come into effect.

Penalties

General provisions regarding penalties specified in the Schedules.

115. (1) Whoever—

(a) contravenes any of the provisions of this Act specified in the first and second columns of Schedule I, or

(b) contravenes any rule or order made under any of the provisions so specified, or

(c) fails to comply with any direction lawfully given to him or any requisition lawfully made upon him under or in pursuance of any of the said provisions,

shall be punishable with fine which may extend to the amount mentioned in that behalf in the fourth column of the said Schedule.

(2) Whoever after having been convicted of—

- (a) contravening any of the provisions of this Act specified in the first and second columns of Schedule II, or
- (b) contravening any rule or order made under any of the provisions so specified, or
- (c) failing to comply with any direction lawfully given to him or any requisition lawfully made upon him under or in pursuance of any of the said provisions,

continues to contravene the said provision or the said rule or order, or continues to fail to comply with the said direction or requisition, shall be punishable for each day after the previous date of conviction during which he continues so to offend, with fine which may extend to the amount mentioned in that behalf in the fourth column of the said Schedule.

Explanation.—The entries in the third column of Schedules I and II headed “Subject” are not intended as definitions of the offences described in the provisions specified in the first and second columns thereof, or even as abstracts of those provisions, but are inserted merely as references to the subject dealt with therein.

116. (1) Whoever acts as a member of a panchayat knowing that, under this Act or the rules made thereunder, he is not entitled or has ceased to be entitled to hold office as such, shall be punishable with fine not exceeding two hundred rupees for every such offence.

Penalty for acting as member, president or vice-president of a panchayat when disqualified.

(2) Whoever acts as the president, temporary president or vice-president of a panchayat, or exercises any of his functions including where he is also the executive authority, any of his functions as such knowing that, under this Act or the rules made thereunder, he is not entitled or has ceased to be entitled to hold office as such, or to exercise such functions, shall be punishable with fine not exceeding one thousand rupees for every such offence.

(3) Any person who having been the president, temporary president or vice-president of a panchayat fails to hand over any documents of, or any moneys or other properties vested in or belonging to, the panchayat, which are in or have come into his possession or control, to his successor in office or other prescribed authority—

- (a) in every case as soon as his term of office as such president, temporary president or vice-president expires; and
- (b) in the case of a person who was the vice-president, also on demand by the president,

shall be punishable with fine not exceeding one thousand rupees for every such offence.

Penalty for acquisition by an officer or servant of interest in contract work.

117. If any officer or servant of a panchayat knowingly acquires, directly or indirectly, by himself or by a partner, employer or servant, any personal share or interest in any contract or employment with, by or on behalf of, the panchayat, he shall be deemed to have committed an offence under section 168 of the Indian Penal Code :

Central Act
XLV of 1860.

Provided that no person shall, by reason of being a shareholder in, or member of, any company, be held to be interested in any contract entered into between such company and the panchayat unless he is a director of such company :

Provided further that nothing in this section shall apply to any person who, with the sanction of the Inspector, enters into a contract with the panchayat.

Wrongful restraint of executive authority or his delegate.

118. Any person who prevents the executive authority or any person to whom the executive authority has lawfully delegated his powers of entering on or into any place, building or land, from exercising his lawful power of entering thereon or thereinto shall be deemed to have committed an offence under section 341 of the Indian Penal Code.

Central Act
XLV of 1860.

Prohibition against obstruction of panchayats, etc.

119. Any person obstructing or molesting a panchayat, or the president, the executive authority or a member of the panchayat, or any person employed by it or any person with whom a contract has been entered into by or on behalf of the panchayat, in the discharge of their duty or of anything which they are empowered or required to do by virtue, or in consequence, of this Act or of any rule, bye-law, regulation or order made thereunder, shall be punished with fine which may extend to fifty rupees.

Prohibition against removal or obliteration of notice.

120. Any person who, without authority in that behalf, removes, destroys, defaces or otherwise obliterates any notice exhibited or any sign or mark erected by, or under the orders of, a panchayat or its executive authority, shall be punishable with fine which may extend to fifty rupees.

Penalty for not giving information or giving false information

121. Any person required by this Act or by any notice or other proceedings issued thereunder to furnish any information, who omits to furnish such information, or knowingly furnishes false information, shall be punishable with fine not exceeding one hundred rupees.

CHAPTER VIII

SUPPLEMENTAL PROVISIONS

Special provisions in the case of new panchayats.

122. (1) The provisions of this section shall apply when a panchayat is constituted for the first time, notwithstanding anything contained in this Act.

(2) The election authority shall make arrangements for the election of the members and of the president of the panchayat, so that the newly elected members and the president may come into office on the date specified in the notification issued by the Inspector under section 3, sub-section (1), for the constitution of the panchayat :

Provided that the Inspector shall have power from time to time to postpone the date so specified if, for any reason, it is not found possible to complete the elections in time.

(3) The term of office of the members and of the president elected under sub-section (2) or of the members elected in their places in casual vacancies shall expire in such year and on such date as the Inspector may fix. The year so fixed shall be either the year in which the next ordinary elections or the year in which the ordinary elections immediately succeeding such elections are to be held for any panchayat in the same district. The date so fixed shall not be later than the 31st day of December.

123. All roads, markets, wells, tanks, reservoirs and water-ways vested in or maintained by a panchayat shall be open to the use and enjoyment of all persons, irrespective of their caste or creed. Public roads markets, wells tanks, etc. to be open to all.

124. A panchayat shall have power to farm out the collection of any fees due to it under this Act or any rule, bye-law or regulation made thereunder for any period not exceeding three years at a time, on such conditions as it thinks fit. Power to farm out fees.

Madras Act
V of 1920.

125. (1) The Inspector may, whether at the request of the panchayat or otherwise, by notification, declare that any of the provisions of the Madras District Municipalities Act, 1920, or of any rules made thereunder, shall be extended to, and be in force in, the village or any specified area therein. Extension of provision of Madras District Municipalities Act, 1920 or of rules thereunder.

(2) The provisions so notified shall be construed with such alterations not affecting the substance as may be necessary or proper for the purpose of adapting them to the village or specified area therein.

(3) Without prejudice to the generality of the foregoing provision, all references to a municipal council or the chairman or the executive authority thereof shall be construed as references to the panchayat or the president or the executive authority thereof, all references to any officer or servant of a municipal council as references to the corresponding officer or servant of the panchayat, and all references to the municipal limits as references to the limits of the village or specified area therein, as the case may be.

Madras Act
XIV of 1920.

126. Notwithstanding anything contained in this Act, or in the Madras District Boards Act, 1920 the Government may, by notification and subject to such restrictions and conditions and to such control and revision as may be specified therein, direct that in the case of any panchayat or class of panchayats, any functions vested in such panchayats or class of panchayats by or under that Act shall be transferred to and performed by the district board. Transfer of functions of panchayats to district boards.

127. (1) The Government may, by notification, authorize any authority, officer or person to exercise in any local area, in regard to any panchayat or any class of panchayats or Delegation of powers, etc.

all panchayats in that area, any of the powers vested in them by this Act except the power to make rules; and may in like manner withdraw such authority.

(2) The Inspector or the Collector may, by notification, authorize any officer or person to exercise in any local area in the State or the revenue district, as the case may be, in regard to any panchayat, or any class of panchayats or all panchayats in that area any of the powers vested by this Act in the Inspector or the Collector, as the case may be; and may in like manner withdraw such authority.

(3) The exercise of any power delegated under sub-section (1) or (2) shall be subject to such restrictions and conditions as may be prescribed or as may be specified in the notification, and also to control and revision by the delegating authority, or where such authority is the Government, by such persons as may be empowered by the Government in this behalf. The Government shall also have power to control and revise the acts or proceedings of any persons so empowered.

(4) The exercise of any power conferred on the Inspector or the Collector by any of the provisions of this Act, including sub-sections (2) and (3) of this section, shall, whether such power is exercised by the Inspector or the Collector himself or by any person to whom it has been delegated under sub-section (2), be subject to such restrictions and conditions as may be prescribed and also to control by the Government or by such person as may be empowered by them in this behalf. The Government shall also have power to control the acts or proceedings of any persons so empowered.

Revision

128. (1) The Government may, in their discretion, at any time, either *suo motu* or on application, call for and examine the record of any order passed or proceeding recorded under the provisions of this Act by—

- (a) the Inspector or the Collector or any officer or person authorized by the Inspector or the Collector under sub-section (2) of section 127, or
- (b) any authority, officer or person authorized by the Government under sub-section (1) of that section or any person empowered by them under sub-section (3) of that section, or
- (c) any other authority, officer or person

for the purpose of satisfying themselves as to the legality or propriety of such order, or as to the regularity of such proceeding and pass such order in reference thereto as they think fit.

(2) The powers of the nature referred to in sub-section (1) may also be exercised by such authority, officer or person as may be empowered in this behalf by the Government.

Construction of references to panchayat.

129. Any reference to a panchayat contained in any law, rule, bye-law, regulation, notification, scheme, form or order in force, in the State at the commencement of this Act shall be deemed to be a reference to a panchayat as reconstituted or constituted under this Act.

130. (1) When a dispute exists between a panchayat and one or more other local authorities in regard to any matter arising under the provisions of this or any other Act and the Government are of opinion that the panchayat and the other local authorities concerned are unable to settle it amicably among themselves, the Government may take cognizance of the dispute, and—

Adjudication of disputes between local authorities.

(a) decide it themselves, or

(b) refer it for inquiry and report to an arbitrator or a board of arbitrators or to a joint committee constituted under section 39 for the purpose.

(2) The report referred to in clause (b) of sub-section (1) shall be submitted to the Government who shall decide the dispute in such manner as they deem fit.

(3) Any decision given under clause (a) of sub-section (1) or under sub-section (2) may be modified from time to time by the Government in such manner as they deem fit, and any such decision with the modifications, if any, made therein under this sub-section may be cancelled at any time by the Government.

Any such decision or any modification therein or cancellation thereof shall be binding on the panchayat and each of the other local authorities concerned and shall not be liable to be questioned in any Court of law.

(4) Where one of the local authorities concerned is a cantonment authority or the port authority of a major port, the powers of the Government under this section shall be exercisable only with the concurrence of the Central Government.

131. (1) In regard to the first reconstitution in accordance with the provisions of this Act of panchayats in existence at the commencement thereof, and otherwise in first giving effect to the said provisions, they shall be read subject to the rules in Schedule III.

Act to be read subject to Schedule III in regard to first reconstitution of panchayats, etc.

(2) The Government shall have power, by notification, to amend, add to or repeal the rules in the said Schedule.

Madras Act I of 1889.

132. Notwithstanding anything contained in the Madras Village Courts Act, 1888 (hereinafter in this section referred to as the said Act)—

Modification of the Madras Village Courts Act, 1888.

(1) every panchayat constituted or deemed to be constituted under this Act for any area shall be deemed to be a panchayat court for that area under section 9 (1) of the said Act; and the members (including the president and vice-president) of such panchayat shall be deemed to be *ex-officio* members of such panchayat court, the president and vice-president aforesaid being also deemed *ex-officio* to be the president and vice-president respectively of the panchayat court;

(2) where a panchayat is dissolved or superseded under section 48 (1) of this Act, the panchayat court aforesaid shall, until the panchayat is reconstituted, consist of—

- (a) the president of the panchayat or the person appointed under section 48(5) of this Act, as the case may be, who shall be the president and member of the panchayat court; and
- (b) three other members appointed by the Inspector from among persons qualified to be elected as members of the panchayat;

(3) in any area within the jurisdiction of a panchayat constituted or deemed to be constituted under this Act, the jurisdiction of any village or panchayat court or courts, if any, established under the said Act before the commencement of this Act shall cease, and the panchayat shall be deemed to be a panchayat court established in lieu of such court or courts within the meaning and for the purposes of sections 9-A and 9-B of the said Act;

(4) in the area within the jurisdiction of any such panchayats—

- (a) the provisions of sections 6 to 8, 9 (2), (3), (4), (5) (a) and (7) of the said Act shall not apply;
- (b) the Inspector may remove from office the president, vice-president or member of any panchayat court, whether holding office under clause (1) or clause (2), for incapacity, neglect of duty, misconduct or other just and sufficient cause;
- (c) the provisions of section 9(5) (b), (c), (d) and (e) of the said Act shall not apply in the case referred to in clause (2); and in that case the president of the panchayat court shall preside over its sittings and if he is absent from any sitting, the members present shall elect from among themselves a president for the purposes of that sitting;
- (d) the provisions of section 13 of the said Act shall be construed as if for the words “sum of rupees fifty”, the words “sum of rupees one hundred” were substituted;

(5) the Government may, by notification, confer on any panchayat court established under this section any civil or criminal jurisdiction not provided for in the said Act.

Application
of the Indian
Registration
Act, 1908.

133. Notwithstanding anything contained in the Indian Registration Act, 1908, the Inspector-General of Registration Central Act XVI of 1908. may, subject to the control of the Government, by order, authorize the executive authority of any panchayat within whose jurisdiction the office of a Sub-Registrar functioning under that Act is not situated, to exercise the powers and discharge the duties of the Sub-Registrar under that Act in respect of—

- (a) all or any documents which are exempt from stamp duty and registration fees;

- (b) all or any documents which are classified by rules made under this Act, as documents of an ephemeral nature.

Madras Act XX of 1933. **134.** In section 11 of the Madras Commercial Crops Markets Act, 1933, after sub-section (2), the following sub-section shall be added, namely :— Amendment of the Madras Commercial Crops Markets Act, 1933.

- “(3) Out of the fees levied under sub-section (1) on the commercial crop or crops bought and sold in any part of the notified area which constitutes a village as defined in section 2 of the Madras Village Panchayats Act, 1950, such proportion as may be prescribed shall be paid by the market committee to the panchayat concerned.”

Madras Act III of 1939. **135.** In the Madras Public Health Act, 1939, the following consequential amendments shall be made, namely :— Consequential amendments of the Madras Public Health Act, 1939.

- (i) in clause (8) of section 3, after the word “President” the words “Executive Officer” shall be inserted, the word “or” occurring after the words and figures “District Municipalities Act, 1920” shall be omitted, and before the words “as the case may be” the words and figures “or the Madras Village Panchayats Act, 1950” shall be inserted;
- (ii) in clause (9) of the same section, for the words and figures “or the Madras District Municipalities Act, 1920, or the Madras Local Boards Act, 1920, as the case may be”, the words and figures “the Madras District Municipalities Act, 1920, the Madras District Boards Act, 1920, or the Madras Village Panchayats Act, 1950, as the case may be” shall be substituted;
- (iii) in clause (20) of the same section, after the words “a panchayat” in sub-clause (c), the words and figures “constituted under the Madras Village Panchayats Act, 1950” shall be inserted; and for the words “a panchayat” in sub-clause (d), the words “such panchayat” shall be substituted;
- (iv) in section 16, before the words and figures “the Madras Prevention of Adulteration Act, 1918” the words and figures “the Madras Village Panchayats Act, 1950” shall be inserted;
- (v) in section 133, the word “and” occurring at the end of clause (b) shall be omitted; and after clause (c) the following clause shall be added, namely :—

“(d) in case the local authority is a panchayat constituted under the Madras Village Panchayats Act, 1950, section 114 of that Act”;

(vi) in clause (b) of sub section (2) of section 140, after sub-clause (iii), the following sub-clause shall be inserted, namely :—

“(iii-a) sections 79, 81, 82, 84, 85, 87, 88, 90 to 92 and 123 of the Madras Village Panchayats Act, 1950, read with section 115 of that Act and Schedules I and II thereto.”

Consequential amendments of the Madras Local Boards Act, 1920.

136. The Madras Local Boards Act, 1920, shall be amended in the manner set forth in Schedule IV.

Madras Act XIV of 1920.

Construction of references to 'local board' and 'Madras Local Boards, Act, 1920'.

137. In the absence of an intention to the contrary appearing in this Act or in the Madras District Boards Act, 1920, and unless the Government otherwise direct, any reference to local boards in any law or rule in force in the State at the commencement of this Act shall be deemed to be a reference to district boards and panchayats, and any reference to the Madras Local Boards Act, 1920, in any such law or rule shall be deemed to be a reference to the Madras District Boards Act, 1920, and the Madras Village Panchayats Act, 1950.

Madras Act XIV of 1920.

Power to remove difficulties.

138. If any difficulty arises in first giving effect to the provisions of this Act or as to the first reconstitution or constitution of any panchayat after the commencement of this Act, the Government as occasion may require, may, by order, do anything which appears to them necessary for the purpose of removing the difficulty.

SCHEDULE I

Ordinary penalties

[See section 115 (1)]

Section	Sub-section or clause	Subject	Fine which may be imposed
(1)	(2)	(3)	(4)
79	(a)	Unlawful building of wall or erecting of fence, etc., in or over public road.	One hundred rupees.
79	(b)	Unlawful making of hole or depositing of matter in or over public road.	Fifty rupees.
79	(c)	Unlawful quarrying in any place near public road, etc.	Fifty rupees.
79	(d)	Unlawful construction of building over drain	Two hundred rupees.
79	(e)	Planting of trees without permission on any public road or other property vested in a panchayat.	Two hundred rupees.
79	(f)	Felling, etc., without permission of trees growing on public road or other property vested in a panchayat, or on a poramboke or land, the use of which is regulated by it under section 60 or section 61.	Two hundred rupees.
81	(1)	Opening or keeping open a private market in contravention of section 81.	Five hundred rupees.
82	(3)	Levy of fees in private market without a certificate.	One hundred rupees.

Section	Sub-section or clause	Subject	Fine which may be imposed
(1)	(2)	(3)	(4)
84	..	Sale or exposure for sale in public or private market of any animal or article without permission.	Twenty rupees.
85	..	Sale, etc., of articles in public roads or places after prohibition or without licence or contrary to regulations.	Ten rupees.
87	(b)	Using any public place or roadside as a landing or halting place or as a cart-stand within prohibited distance.	Fifty rupees.
88	(1)	Opening a new private cart-stand or continuing to keep open a private cart-stand without licence or contrary to licence.	Two hundred rupees.
90	(a)	Slaughtering, cutting up or skinning, etc., of animals outside public slaughter-houses in contravention of rules.	Two hundred rupees.
90	(b)	*Slaughtering animals for purposes of sale without licence or contrary to licence.	Twenty rupees.
91	..	Using a place for any prescribed purpose without licence or contrary to licence.	One hundred rupees.
92	..	Unlawful erection of factory, workshop, etc.	One thousand rupees.
95	(2)	Unlawful destruction, etc., of number of buildings.	Five rupees.
95	(3)	Failure to replace number when required to do so.	Twenty rupees.
123	..	Obstructing a person in the use or enjoyment of a public road, market, well, tank, etc.	One hundred rupees.

SCHEDULE II

Penalties for continuing breaches

[See section 115 (2)]

Section	Sub-section or clause	Subject	Fine which may be imposed
(1)	(2)	(3)	(4)
79	(a)	Unlawful building of wall or erecting of fence, etc., in or over public road.	Twenty rupees.
79	(b)	Unlawful making of hole or depositing of matter in or over public road.	Ten rupees.
79	(c)	Unlawful quarrying in any place near public road, etc.	Ten rupees.
79	(d)	Unlawful construction of building over drain.	Fifty rupees.
81	(1)	Opening or keeping open a private market in contravention of section 81.	One hundred rupees.
82	(3)	Levy of fees in private market without a certificate.	Fifty rupees.
84	..	Sale or exposure for sale in public or private market of animal or article without permission.	Ten rupees.
88	(1)	Keeping open a private cart-stand without licence or contrary to licence.	Twenty rupees.
91	..	Using a place for any prescribed purpose without a licence or contrary to licence.	Twenty rupees.
92	..	Unlawful erection of factory, workshop, etc.	* One hundred rupees.

SCHEDULE III

Transitional provisions

(See section 131)

Definitions of "old Act" and "panchayat". 1. In these rules, "the old Act" means the Madras Local Boards Act, 1920, and "panchayat" means a panchayat constituted under the old Act and in existence at the commencement of this Act.

Existing villages and panchayats to be deemed to be duly constituted. 2. Every local area which at the commencement of this Act is a village under the old Act shall be deemed to have been declared to be a village under this Act, and every panchayat shall be deemed to have been constituted under this Act :

Provided that where a village under the old Act comprises any revenue village which has a population of five hundred or more and the population of the village after excluding such revenue village is not less than five hundred, the Inspector shall, as soon as may be after the commencement of this Act, exclude such revenue village from the village and declare it to be a village for the purposes of this Act, in accordance with the provisions of section 3 thereof unless he considers it inexpedient to do so on account of the contiguity of the revenue villages comprised in the village.

Total number of members of panchayats. 3. The total number of members of a panchayat fixed under the old Act and in force at the commencement of this Act shall be deemed to be the total number of its elected members under this Act :

Provided that where the total number of members of a panchayat fixed under the old Act is more than fifteen, the total number of its elected members under this Act shall be deemed to be fifteen.

Members elected under the old Act to be elected or ex-officio members under this Act 4. (1) The members of a panchayat holding office at the commencement of this Act (other than its president and any village headman) shall be deemed to be the elected members of the panchayat under this Act and such members shall continue to hold office up to such date as the Government may, by notification, fix in this behalf, or in case no such date is fixed, up to the date on which their term of office would have expired if this Act had not come into force.

(2) A member of a panchayat who is its president at the commencement of this Act shall be deemed to be an *ex-officio* member of the panchayat under this Act.

(3) A village headman who is a member of the panchayat at the commencement of this Act shall cease to hold office as such member.

Reservation of seats to continue only in the case of Scheduled Castes. 5. (1) The reservation of seats for the members of the Scheduled Castes made under the old Act and in force at the commencement of this Act shall be deemed to have been made under this Act.

(2) The reservation of seats for the members of any other community made under the old Act shall cease to be in force with effect from the commencement of this Act, but nothing herein shall affect the tenure of office of a member elected to a seat so reserved and holding office at the commencement of this Act.

Existing wards to continue except in certain cases. 6. (1) Any division of a village into wards made under the old Act and in force at the commencement of this Act shall be deemed to have been made under this Act :

Provided that where such division is not in accordance with the provisions of section 9 of this Act, the Inspector shall, as soon as may be after the commencement of this Act, re-divide the village in accordance with those provisions.

(2) Where a village has to be divided into wards under the provisions of section 9 of this Act but has not been so divided before the commencement of this Act, the Inspector shall, as soon as may be after such commencement, divide the village into wards in accordance with those provisions.

(3) The Inspector shall, as soon as may be after the commencement of this Act, determine the ward which each of the members who is deemed to be an elected member under sub-rule (1) of rule 4 shall be deemed to represent.

7. The president and vice-president of a panchayat holding office at the commencement of this Act shall, subject to the provisions thereof, continue to hold office as such president or vice-president up to the date referred to in sub-rule (1) of rule 4.

Term of office of existing presidents and vice-presidents.

8. (1) Any vacancy in the office of the president or vice-president of a panchayat which is in existence at the commencement of this Act or of casual which occurs before the date referred to in sub-rule (1) of rule 4 shall be filled by election under the provisions of this Act.

Filling up of casual vacancies.

(2) Any such vacancy in the office of an elected member of a panchayat shall be filled by election under the provisions of this Act.

(3) Any person elected as president, vice-president or member of a panchayat under sub-rule (1) or (2) shall hold office only up to the date referred to in sub-rule (1) of rule 4.

Explanation.—For the purposes of this rule—

(1) if a person holding office as an elected member of a panchayat at the commencement of this Act becomes an *ex-officio* member thereof under sub-rule (2) of rule 4, his seat as an elected member shall, except in cases where the total number of members of the panchayat fixed under the old Act is more than fifteen, be deemed to have become vacant at the commencement of this Act;

(2) the seat of a village headman holding office as a member of a panchayat at the commencement of this Act shall be deemed to have become vacant at such commencement;

(3) the office of president, vice-president or member of a panchayat to which no person had, at any time prior to the commencement of this Act, been elected shall be deemed to be vacant at the commencement of this Act.

9. Any panchayat dissolved or superseded under the old Act and awaiting reconstitution at the commencement of this Act shall be reconstituted in accordance with the provisions of this Act.

Reconstitution of panchayats dissolved or superseded under old Act.

10. Where a panchayat has been constituted for the first time under the old Act and a special officer appointed for the panchayat under section 240 of that Act is in office as such at the commencement of this Act, it shall be constituted in accordance with section 122 of this Act.

Constitution of panchayats for which special officer has been appointed under old Act.

11. (1) All property, all rights of whatever kind used, enjoyed or possessed by, and all interests of whatever kind owned by or vested in or held in trust, by or for any panchayat as well as all liabilities legally subsisting against it shall, on and from the date of the commencement of this Act and subject to such directions as the Government may, by general or special order, give in this behalf, pass to such panchayat as deemed to be constituted under this Act.

Devolution of property rights and liabilities.

(2) All arrears of taxes or other payments by way of composition for a tax or due for expenses or compensation or otherwise due to a panchayat at the commencement of this Act may be recovered as if they had accrued under this Act.

(3) All proceedings taken by or against any panchayat or other authority under the old Act may, in so far as they are not inconsistent with this Act, be continued by or against such panchayat or authority under this Act.

12. Any tax, cess or fee which was being lawfully levied by any panchayat at the commencement of this Act shall continue to be levied by the panchayat for the year in which this Act is brought into force and unless and until the Government by general or special order otherwise direct, for subsequent years also.

Continuance of existing taxes.

Action taken under old Act to continue. 13. Any action taken by any authority before the commencement of this Act shall, unless inconsistent with this Act, be deemed to have been taken by the authority competent to take such action under this Act; unless and until superseded by action taken by such authority, whether it be the same as the authority competent to take such action under the old Act or not.

SCHEDULE IV

Amendments of the Madras Local Boards Act, 1920

(See section 136)

1. In the Act (the Madras Local Boards Act, 1920) including the Long Title, the Preamble and the Schedules thereto, other than Schedule I, for the words in the first column of the table below, the words in the corresponding entry in the second column thereof shall be substituted except as otherwise expressly provided in this Schedule :—

(1)

(2)

local board	district board
local boards	district boards
panchayat	district board
panchayats	district boards
local fund	district fund
village fund	district fund

2. In section 3—

(i) for clause 7 (C), the following clause shall be substituted, namely :—

“(7-C) ‘executive authority’ means the president;”;

(ii) clauses (7-D) and (8) shall be omitted and for clauses (11) and (12), the following clause shall be substituted, namely:—

“(11) ‘non-panchayat area’ means any area which is not comprised within the jurisdiction of a panchayat constituted under the Madras Village Panchayats Act, 1950;”;

(iii) for clauses (15-A) and (15-B), the following clauses shall be substituted, namely :—

“(15-A) ‘panchayat’ means a panchayat constituted under the Madras Village Panchayats Act, 1950;

(15-B) ‘panchayat area’ means the area comprised within the jurisdiction of a panchayat constituted under the Madras Village Panchayats Act, 1950;”;

(iv) clauses (19-B), (19-C) and (23) shall be omitted.

3. For the heading of Chapter II, the heading “Districts” shall be substituted.

4. Section 5 shall be omitted.

5. In section 6—

(i) in sub-section (1), the words “and for each village, a panchayat” shall be omitted;

(ii) for sub-section (2), the following sub-section shall be substituted, namely,

“(2) subject to the provisions of this Act, the local administration of a district shall vest in the district board constituted therefor, but the board shall not be entitled to exercise functions expressly assigned by or under this Act or any other law to its president or to other authorities.”

(iii) in sub-section (3), the words “or village” and the words and figure “or 5, as the case may be”, shall be omitted.

6. For section 7, the following section shall be substituted, namely:—

“7. Subject to the provisions of sub-section (3-A) of section 9, the total number of members of a District Board shall not exceed 52 or be less than 24.”

‘Executive authority.’

‘Non-panchayat area’.

‘Panchayat’.

‘Panchayat area.’

Strength of District Boards.

7. In section 9—

- (i) sub-section (2) shall be omitted;
- (ii) in sub-section (3), the word, brackets and figure “ or (2)” shall be omitted.

8. In clause (b) of sub-sections (1) and (2) of section 15, for the words “any other local board”, the words “any panchayat” shall be substituted.

9. In section 19, the words “or appointment” and “temporary president” shall be omitted.

10. (1) Sections 21 and 21-C shall be omitted.

(2) In section 21-D, the brackets and figure “(1)” and clauses (2) and (3) shall be omitted.

11. In section 22-A—

- (i) clause (b) of sub-section (2) shall be omitted and clause (a) thereof shall be renumbered as sub-section (2);
- (ii) in sub-section (3), the words “in the case of district boards and of not less than five clear days in the case of panchayats” shall be omitted;
- (iii) sub-section (4) shall be omitted and the Explanation shall be retained unaltered.

12. In section 23—

- (i) in sub-sections (1) and (3), the words “where he is also the executive authority” shall be omitted;
- (ii) in sub-section (2), for the words “including where he is also the executive authority his functions as such”, the words “including his functions as executive authority” shall be substituted;
- (iii) in the proviso to the same sub-section, after the words “president’s functions”, the words “including his functions as executive authority” shall be inserted;
- (iv) for clause (iii) of the proviso to sub-section (3), the following clause shall be substituted, namely :—
“(iii) every order made under this sub-section shall be communicated to the board at its next meeting”;
- (v) for sub-section (4), the following sub-section shall be substituted, namely :—
“(4) Subject to any restrictions that the district board may impose, the president may by an order in writing delegate any of his executive functions to any member, officer or servant of the board or to any servant of the State Government”.

13. Section 24 shall be omitted.

14. In sub-section (1) of section 26, for the words “within the local board area”, the words “within the district” shall be substituted.

15. In sub-section (2) of section 27, for the portion beginning with the words “refer the question” and ending with the words “be final”, the following words shall be substituted, namely :—

“refer the question to the State Government whose decision shall be final.”

16. In section 27-A—

- (i) in sub-section (1), clause (ii) shall be omitted and clauses (iii) and (iv) shall be renumbered as clauses (ii) and (iii) respectively;
- (ii) in sub-section (2), for the words “four standing committees referred to”, the words “three standing committees referred to” shall be substituted;
- (iii) in sub-section (3)—
 - (a) the second proviso to clause (a) shall be omitted;
 - (b) the words “except in the case of the standing committee for rural development” in clause (b) shall be omitted.

17. Section 33 shall be omitted.

18. For section 36, the following section shall be substituted, namely :—

Submission
of annual
reports.

“36. (1) As soon as may be after the first day of April every year and not later than such date as may be fixed by the State Government, every district board shall submit to the State Government, a report on its administration during the preceding year in such form and with such details as the State Government may direct.

(2) The executive authority shall prepare the report; the district board shall consider the report and submit it to the State Government with its resolutions thereon, if any.

(3) The report and the resolutions thereon, if any, shall be published in such manner as the State Government may direct.”

19. In section 37, the figure and brackets “(1)” at the commencement shall be omitted.

20. In section 37-B, the words “executive authorities” shall be omitted.

21. Section 37-D and 42 shall be omitted.

22. In sub-section (1) of section 41, the words “or executive authority” shall be omitted and after the words “any other Act”, the words “including in the case of its president any of his duties as executive authority” shall be inserted.

23. In sub-section (1) of section 43, the words “where he is also the executive authority” shall be omitted.

24. In section 45—

(i) in sub-section (1-A), the words “and to the district board in the case of a panchayat” and the words “or boards” in both the places where they occur shall be omitted;

(ii) in sub-section (3), for the words “including where the president is also the executive authority his powers and duties as such”, the words “including his powers and duties as executive authority” shall be substituted.

25. Section 45-A shall be omitted.

26. In section 45-B, the words, figures and letter “or a panchayat is superseded under section 45-A”, the words “or panchayat” in the two places where they occur, and the words “or supersession” shall be omitted.

27. Sub-section (2) of section 46 shall be omitted and sub-section (1) thereof renumbered as section 46.

28. Section 49 shall be omitted.

29. In section 51—

(i) in sub-section (1), for the words and brackets “the area of the local board (hereinafter in this section referred to as ‘local area’), the words “a district” shall be substituted;

(ii) in Explanation (1) to the same sub-section, for the words “local area” wherever they occur, the word “district” shall be substituted;

(iii) in sub-section (2), the words “The District Panchayat Officer or” shall be omitted;

(iv) in sub-section (3), the words “and when a village has been divided into wards the electoral roll for the panchayat shall be divided into separate parts for each ward” shall be omitted

(v) clause (b) of sub-section (4) shall be omitted and clause (a) thereof shall be renumbered as sub-section (4).

30. In sub-section (1) of section 56, for clause (g), the following clause shall be substituted, namely :—

“(g) ceases to reside in the district or in a municipality (including the City of Madras) or a cantonment, situated within three miles of the district;”.

31. In section 60—

(i) for sub-section (1), the following sub-section shall be substituted, namely :—

(1) All public roads in any district which are classed as district roads and all public roads in non-panchayat areas in the district shall vest in the district board.”;

(ii) in sub-section (2), after the words “a public road”, the words, figure and brackets “which vests in a district board under sub-section (1)” shall be inserted; for the words “any public road”, the words “any such road” shall be substituted; and the words “in which the public road vests” shall be omitted.

32. In section 62, for the words “vested in a local board”, the words “vested in itself” and for the words “other local board”, the word “panchayat” shall be substituted.

33. In section 65, the words “or a collector or any private person or body of persons” shall be omitted, and the word “panchayat” wherever it occurs shall be retained unaltered.

34. Sections 65-A and 65-B shall be omitted.

35. In section 68—

(i) in sub-section (1), for the words “a post of district health officer and one or more posts of district panchayat officer”, the words “and one or more posts of district health officer” shall be substituted;

(ii) in the proviso to sub-section (3), for the words “district health officer or district panchayat officer”, the words “or district health officer” shall be substituted.

36. In sub-section (1) of section 69, for the words “district health officer or district panchayat officer”, the words “or district health officer” shall be substituted.

37. Section 69-B shall be omitted.

38. In sub-section (1) of section 69-C, the words “or panchayat” shall be omitted.

39. In section 70, for the words “the district health officer and the district panchayat officer”, the words “and the district health officer” shall be substituted.

40. In sub-section (1) of section 70-A—

(i) for the words and figures “or in the Madras District Municipalities Act, 1920”, the words and figures “the Madras District Municipalities Act, 1920, or the Madras Village Panchayats Act, 1950” shall be substituted;

(ii) after the words and figures “under the Madras District Municipalities Act, 1920”, the words and figures “or of any panchayat constituted under the Madras Village Panchayats Act, 1950” shall be inserted;

(iii) for the proviso, the following proviso shall be substituted, namely :—

“Provided that no such transfer shall be made except after consulting the district board, and the other district board, the municipal council or the executive authority of the panchayat, as the case may be.”

41. Sub-section (2) of section 71 shall be omitted and sub-section (1) thereof shall be renumbered as section 71; and in the opening paragraph of the section as so renumbered, the words “and on the staff of all panchayats in the district” shall be omitted.

42. In section 72, for the words “the district health officer or the district panchayat officer”, the words “or the district health officer” shall be substituted.

43. Sub-section (2) of section 73 shall be omitted and sub-section (1) thereof shall be renumbered as section 73, and in the section as so renumbered, for the words "the district health officer and the district panchayat officer", the words "and the district health officer" shall be substituted.

44. In section 73-B, the words, figures and letter "and of any person appointed under section 69-B" shall be omitted.

45. In section 74-A—

(i) in sub-section (1), for the words "local fund service" the words "separate service" shall be substituted;

(ii) in sub-section (2), the words "local fund" shall be omitted.

46. In section 74-C, after the words "a duty shall be levied", the words "in all non-panchayat areas" shall be inserted.

47. In section 75—

(i) for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) A district board may by a resolution determine that a profession tax shall be levied in all non-panchayat areas in the district or in any non-panchayat area specified in the resolution.";

(ii) sub-section (2) shall be omitted;

(iii) in sub-section (3), for the word "taxes" in clause (a), the words "profession tax" shall be substituted;

(iv) in the same sub-section, in clause (b), for the words "existing profession tax" and "a profession tax" shall respectively be substituted, and for the words "in the case of local boards which have an outstanding loan", the words "if the district board has an outstanding loan" shall be substituted;

(v) in sub-section (4), the words, figure and brackets "or a notification under sub-section (2)" and the words "or notification" and "or panchaya", as the case may be" shall be omitted.

48. In section 77, sub-section (2) shall be omitted; clauses (a) and (b) of sub-section (1) shall be renumbered as sub-sections (1) and (2) respectively; and in sub-section (2) as so renumbered, for the expression "clause (a)", the expression "sub-section (1)" shall be substituted.

Apportionment of land cess.

49. After section 91, the following section shall be inserted, namely:—

"92. The proceeds of the land-cess shall be credited to the district fund :

Provided that the cess collected in any panchayat area shall be distributed as follows :—

(a) three-fourth of the cess shall be credited to the district fund, and

(b) one-fourth of the cess shall be credited to the panchayat fund".

50. In sub-section (1) of section 93, for the words "local area" wherever they occur, the words "non-panchayat area" shall be substituted and for the words, brackets, letter and figures "clause (b) of sub-section (1) of section 77", the words, brackets and figures "sub-section (2) of section 77" shall be substituted.

51. In sub-section (1) of section 94-A, for the words "local area" wherever they occur, the words "non-panchayat area" shall be substituted.

52. Section 95 shall be omitted.

53. Sections 98 to 103 and the heading thereto shall be omitted.

54. In section 110—

(i) in sub-section (3), for the expression "clause (b) of sub-section (1) of section 77", the expression "sub-section (2) of section 77" shall be substituted;

(ii) after sub-section (4), the following sub-section shall be inserted, namely:—

"(4-A) The proceeds of the pilgrim tax shall be credited to the district fund:

Provided that where the tax is levied in respect of a panchayat area and the occasion for pilgrimage is not a festival classified as a district festival, the proceeds shall be credited to the panchayat fund.”;

(iii) in sub-section (5), for the words “local board” in clause (ii), the words “district board or panchayat” shall be substituted;

(iv) in the same sub-section, in clause (iv), for the words “local boards”, wherever they occur, the words “district boards or panchayats” shall be substituted.

55. In sections 110-A and 110-B, for the words “in the area”, the words “in any non-panchayat area” shall be substituted.

56. In section 111, for the words and figures “Subject to the provisions of section 103, the district board”, the words “The district board” shall be substituted.

57. In section 112—

(i) to sub-section (1), the following proviso shall be added, namely :—

“Provided that nothing contained in this sub-section shall be deemed to enable a district board to expend its moneys within any panchayat area for any purpose exclusively within the jurisdiction of the panchayat, except with the general or special sanction of the State Government.”;

(ii) in sub-section (2), for the words “area of the local board” and “local board area”, the word “district” shall be substituted.

58. In section 114, the words “and for each village a village fund” shall be omitted.

59. In section 115, for the words “village and district funds respectively”, the words “district funds” shall be substituted.

60. In section 116—

(i) in sub-section (2), for the words “Every local board”, the words “The district board” shall be substituted;

(ii) sub-section (3) shall be omitted.

61. In section 117—

(i) in sub-section (1), for the words “a consolidated budget”, the words “its budget” shall be substituted and the words “of itself and of all panchayats in the district” shall be omitted;

(ii) in sub-section (2), the word “consolidated” shall be omitted, and for the words “any local board”, the words “the district board” shall be substituted.

62. Section 118 shall be omitted.

63. In sub-section (1) of section 121, for the words “of a local board area”, the words “of the district or any part thereof” shall be substituted.

64. Before section 122 and the heading thereto, the following heading and section shall be inserted, namely :—

“Application of chapter to panchayat areas

121-B. The provisions of this chapter, except sections 137, 138 and Provisions of 139, shall not apply to any panchayat area unless the State Government chapter except sections 137, 138 and 139 not to apply to panchayat areas.

65. In sub-section (2) of section 124, the words “in the village” shall be omitted.

66. In section 126—

(i) in clause (i), the words “in the village” shall be omitted;

(ii) in clause (ii), the words “in the village” and “or of the district board” shall be omitted, and for the words “for the maintenance, repair and improvement thereof”, the words “for their maintenance, repair and improvement with a view to their use by the public but shall not be entitled to levy any fees in respect thereof” shall be substituted.

67. In section 128, the words "or village", "or the panchayat as the case may be" and "or panchayat" shall be omitted.

68. In section 129, after the words "a public road" where they occur for the first time, the words "vested in a district board" shall be inserted, and for those words where they occur for the second time, the words "such public road" shall be substituted.

69. In section 135, for the word "village," the word "district" shall be substituted.

70. In sub-section (2) of section 140, the words "with the sanction of the district board" shall be omitted.

71. In section 146—

(i) in sub-section (1), the words "with the previous sanction of the district board" shall be omitted;

(ii) in sub-section (2), for the word "village", the words "local area" shall be substituted.

72. In sub-section (1) of sections 147 and 148, for the words "public road appears to the executive authority of the local board in which such road is vested", the words "public road vested in a district board appears to the executive authority thereof" shall be substituted.

73. In sub-section (1) of section 150, after the words "other place, the words "in a non-panchayat area" shall be inserted.

74. In clause (a) of sub-section (1) of section 151, after the words "public road", the words "vested in" shall be inserted.

75. In sub-sections (1) and (2) of section 153, after the words "any building or land", the words "in a non-panchayat area" shall be inserted.

76. To sub-section (1) of section 154, the following paragraph shall be added at the end, namely:—

"Where such notice is given, no person shall keep any pig or dog, as the case may be, within such limits without obtaining a licence from the executive authority of the district board or otherwise than in accordance with the conditions specified in such licence."

77. In section 157, after the words "public road", the words "vested in a district board" shall be inserted.

78. For sub-section (1) of section 158, the following sub-section shall be substituted, namely:—

"(1) No door, gate, bar or ground-floor window shall be hung or placed so as to open outwards upon any public road vested in a district board without a licence from the executive authority of such board."

79. In sub-section (5) of section 160, the words "or any class of local boards" shall be omitted.

80. In sub-section (1) of section 161, after the word "erected", the words "in a non-panchayat area" shall be inserted.

81. In sub-section (1) of section 163, after the words "public road", the words "vested in a district board" shall be inserted, and for the words "executive authority of the local board in which such road is vested", the words "executive authority of the district board" shall be substituted.

82. In Chapter XI, after the heading "Markets, Slaughter-houses, etc." and the sub-heading "Public markets", the following section shall be inserted, namely:—

"166-A. The State Government shall have power to classify public and private markets situated in a panchayat area as district markets and panchayat markets respectively and provide for the control of any such market and for the apportionment of the income derived therefrom between the district board and the panchayat or the payment of a contribution in respect thereof to the panchayat or the district board, as the case may be."

**Classification
of markets as
district and
panchayat
markets.**

83. In section 168—

- (i) to sub-section (1), the words “in any non-panchayat area and if specially authorized by the State Government in that behalf, in any panchayat area” shall be added at the end;
- (ii) in sub-section (2), for the words “any public market”, the words “any of its public markets” shall be substituted;
- (iii) in sub-section (3), the words “with the sanction of the district board” shall be omitted and for the words “any public market”, the words “any of its public markets” shall be substituted.

84. In sub-sections (1) and (2) of section 169, for the words “any public market”, the words “any district board public market” shall be substituted.

85. In section 171, in sub-section (1), after the words “no person shall” the words “in any non-panchayat area” shall be inserted.

86. In section 172—

- (i) in sub-section (1), the reference to the Madras Local Boards Act, 1884, shall be retained unaltered;
- (ii) for sub-sections (2) and (3), the following sub-section shall be substituted, namely :—

“(2) The district board shall, after making or causing to be made such inquiries, if any, as it thinks fit, grant or refuse the certificate.”

87. In sections 176 and 178, after the words “any private market”, the words “in a non-panchayat area or of any private market in a panchayat area which is classified as a district market” shall be inserted.

88. For clauses (a) and (b) of section 179, the following clauses shall be substituted, namely :—

- “(a) in respect of which no licence has been applied for if the market is in a non-panchayat area or if being in a panchayat area it is classified as a district market; or
- (b) the licence for which has been refused, withheld or suspended by the district board; or”.

89. In sub-section (1) of section 180, after the words “to hold a private market in any place”, the words “in a non-panchayat area or to hold a private market classified as a district market in any place in a panchayat area” shall be inserted.

90. In section 181, for the words “appeal against such order to the district board”, the words “appeal against such order to the State Government” and for the words “the executive authority of the district board may, if he thinks fit” the words “the State Government may, if they think fit” shall be substituted.

91. In section 182, after the word “market”, the words “in a non-panchayat area or of a market in a panchayat area which is classified as a district market” shall be inserted.

92. Section 183-A shall be omitted.

93. In section 183-B, the words “panchayat or” shall be omitted.

94. (1) In sub-section (1) of section 184, after the word “cart-stands”, the words “in non-panchayat areas” shall be inserted.

(2) In sub-section (1-B) of the same section, the reference to the Madras District Municipalities and Local Boards (Amendment) Act, 1941, shall be retained unaltered.

95. To section 185, the words “being a place or road vesting in the district board” shall be added.

96. In section 187, in sub-section (1), after the words “No person shall”, the words “in any non-panchayat area” shall be inserted.

97. In section 189, to sub-section (1), the words “in non-panchayat areas” shall be added.

98. In section 190—

- (i) the words “with the sanction of the district board” shall be omitted;
- (ii) in clause (a), for the words “in the village or in any specified area therein”, the words “in any specified non-panchayat area” shall be substituted;
- (iii) in clause (b), after the words “slaughter or permit to be slaughtered”, the words “in any specified non-panchayat area” shall be inserted.

99. In section 191, for the words “within the village”, the words “in non-panchayat areas” shall be substituted.

100. In section 193, in sub-section (1), for the words “within the limits of the village”, the words “situated in any non-panchayat area or in such non-panchayat area as may be specified in the notification” shall be substituted.

101. In section 194—

- (i) in clause (a) of sub-section (1), after the word “establish”, the words “in any non-panchayat area” shall be inserted;
- (ii) in clause (b) of the same sub-section, after the word “premises”, the words “in a non-panchayat area” shall be inserted;
- (iii) in clause (ii) of sub-section (2), the words “by the district board” shall be omitted;
- (iv) in clause (a) of sub-section (4), for the words “in the village” the words “in the non-panchayat area” shall be substituted.

102. In sub-section (1) of section 195, after the word “work-place”, the words “in a non-panchayat area” shall be inserted.

103. In sub-section (1) of section 197, after the word “work-place”, the words “in a non-panchayat area” shall be added.

104. In section 198, for the words “local board area” in the opening paragraph, the words “non-panchayat area” shall be substituted.

105. To section 202, the following proviso shall be added, namely:—

“Provided that nothing contained in this section shall be deemed to authorize the district board, without the approval of the State Government, to make bye-laws for any panchayat area in respect of any matter for which the panchayat may make bye-laws under the Madras Village Panchayats Act, 1950.”

106. Section 203-A shall be omitted.

107. In sections 204 and 205, the words “or panchayat” shall be omitted.

108. In section 205-A—

- (i) sub-section (2) shall be omitted and sub-section (3) renumbered as sub-section (2);
- (ii) in sub-section (2) as so renumbered, the words “or panchayat” and the words, figure and brackets “or (2) as the case may be” shall be omitted.

109. In section 206, the words “of the panchayat and” shall be omitted, and for the words “to the village or to any specified area therein”, the words “to any specified non-panchayat area in the district” shall be substituted.

110. In section 208—

- (i) in sub-section (2), for the words “acts as the president, temporary president or vice-president of a local board or exercises any of his functions including where he is also the executive authority any of his functions as such”, the words “acts as the president or vice-president of a district board or exercises any of his functions including his functions as executive authority” shall be substituted;

- (ii) in sub-section (3), the words "temporary president" wherever they occur shall be omitted.

111. In section 218, for the words "in the area of the local board concerned", the words "in the district" shall be substituted.

112. In section 233, the words "in regard to any local board or any class of local boards or all local boards in that area" shall be omitted.

113. In sections 235(1) and 236, the reference to the Madras Local Boards Act, 1884, shall be retained unaltered.

114. In sub-section (2) of section 237, the words "for different classes of local boards" shall be omitted.

115. In section 240—

- (i) in sub-section (1), for the words "and its executive authority", the words "including his powers, duties and functions as executive authority" shall be substituted;
- (ii) in sub-section (2), the words and figure "or 5 as the case may be" shall be omitted;
- (iii) for sub-section (3), the following sub-section shall be substituted, namely :—
 "(3) The Special Officer shall exercise the powers, discharge the duties and perform the functions—
 (a) of the district board until a board has been constituted; and
 (b) of the president of the board including his powers, duties and functions as executive authority until a president has been elected by the board.";
- (iv) in sub-section (5), for the words "in the same district", the words and figures "in that one of the three groups of districts as divided by the Madras Local Boards (Amendment) Act, 1935, to which the district belongs" shall be substituted;
- (v) in sub-section (8), after the words "exercise jurisdiction", the following words shall be inserted, namely :—
 "or for which a panchayat has been newly constituted."

116. After section 240, the following section shall be inserted, namely :—

"240-A. Notwithstanding anything contained in this Act, or in the Madras Village Panchayats Act, 1950, the State Government may, by notification and subject to such restrictions and conditions and to such control and revision as may be specified therein, direct that any function vested in a district board by or under the Madras District Boards Act, 1920, shall be transferred to and performed by any panchayat or class of panchayats."

**Madras Act
XIV of 1920.**

117. In sub-section (1) of section 241, the words "district board or panchayat" in the two places where they occur and the words "as the case may be" at the end shall be omitted.

118. In Schedule II—

- (i) in rule 2, the words "and every panchayat at least once in every month" shall be omitted;
- (ii) in sub-rule (1) of rule 3, after the words "No meeting" the words "of the district board" shall be inserted, and the words "at least three clear days before the day of the meeting in the case of panchayats and" and "in the case of district boards" shall be omitted;
- (iii) in sub-rule (1) of rule 4, the words "executive officer", the words "at least ten clear days before the day of the meeting in the case of panchayats and" and the words "in the case of district boards" shall be omitted;
- (iv) sub-rules (2), (3) and (4) of rule 11 shall be omitted and sub-rule (1) of that rule shall be renumbered as rule 11; and
- (v) in rule 11 as renumbered, for the words, brackets and figures "sub-section (1) of section 37", the word and figures "section 37" shall be substituted.

119. In Schedule IV—

- (i) in the heading, for the words, figures and brackets “(see sections 92, 93, 95, 98 and 104)” the words, figures and brackets “(see sections 92 and 93)” shall be substituted;
- (ii) for rule 3, the following rule shall be substituted, namely:—
 “3. The District Collector shall cause the net proceeds of the land-cess collected under the authority conferred on him by this Act to be credited to the district fund and the panchayat fund in accordance with the provisions of section 92.”;
- (iii) in rule 4, for the words “local board concerned”, the words “district board or panchayat concerned” shall be substituted;
- (iv) for the heading before rule 5 “Part II—Other Taxes—Provisions common to other taxes in general”, the heading “Part II—Profession Tax—General” shall be substituted;
- (v) in sub-rule (1) of rule 5, the words “separate” and “and the house-tax” shall be omitted;
- (vi) in sub-rules (2) and (3) of the same rule, for the words “any tax”, the words “the tax” shall be substituted;
- (vii) in sub-rule (4) (a) of the same rule, the words “or any property” and the words “relating to any tax” shall be omitted;
- (viii) in rule 6, for the words “person or property”, the words “or person” shall be substituted;
- (ix) in rule 10, for the words “local area” in the two places where they occur, the words “non-panchayat areas” shall be substituted;
- (x) in sub-rule (1) of rule 11, for the word “the area of a single local board” in the opening paragraph, the words “the non-panchayat area of a single district board” and for the words “the area of the local board” in clause (b), the words “the non-panchayat area of the district board” shall be substituted;
- (xi) in sub-rule (2) of the same rule, for the words “partly in the area of a local board” the words “partly in the non-panchayat area of a district board” and for the words “in the area of the local board” occurring later, the words “in the non-panchayat area of the district board” shall be substituted;
- (xii) in sub-rule (3) of the same rule, for the words “local area” in the two places where they occur, the words “non-panchayat area” shall be substituted;
- (xiii) rules 12 to 25 and the heading thereto shall be omitted;
- (xiv) for rule 27, the following rule shall be substituted, namely:—
 “27. An appeal shall lie to the district board in respect of the proceedings of the executive authority under rule 11-A”;
- (xv) in rules 30 and 31, for the words “any tax”, the words “the tax” shall be substituted;
- (xvi) in rule 32—
 - (a) sub-rule (1) shall be omitted and sub-rules (2) to (4) renumbered as sub-rules (1) to (3) respectively;
 - (b) in sub-rule (1) as so renumbered, the words, figures and brackets “and a bill under sub-rule (1) of rule 32” shall be omitted;
 - (c) in clause (a) of the same sub-rule, the words “property or thing” shall be omitted;
 - (d) in sub-rule (2) as so renumbered, the words “or bill” and “or bill as the case may be” shall be omitted;
- (xvii) in sub-rule (1) of rule 33, for the words “any tax”, the words “the tax” shall be substituted, and the words, letter, figures and brackets “or bill or the giving of the direction referred to in rule 24-A (2)” shall be omitted;

(xviii) rule 38 shall be omitted;

(xix) in Appendix A, the words "and premises, if any, in respect of which the tax or taxes are due" and the words and brackets (or as the case may be any goods and chattels found on the premises referred to)" shall be omitted.

120. In Schedule V—

(i) sub-rule (aa) of rule 1 shall be omitted;

(ii) rule 1-A shall be omitted;

(iii) in rule 1-B—

(I) in sub-rule (2)—

(1) for clause (c), the following clause shall be substituted, namely :—

"(c) the establishment and maintenance of choultries in non-panchayat areas and of choultries classified as district choultries in panchayat areas";

(2) in clause (cc), for the portion beginning with the word "except" and ending with the words "district board", the following shall be substituted, namely :—

"except in any panchayat area where a contribution is paid by the district board to the panchayat on the scale fixed by the State Government for the opening and maintenance of elementary schools";

(3) for clause (dd), the following clause shall be substituted, namely :—

"(dd) the opening and maintenance of libraries and reading rooms in non-panchayat areas and of libraries and reading rooms classified as district libraries and district reading rooms in panchayat areas";

(4) for clause (h), the following clause shall be substituted, namely :—

"(h) the establishment and maintenance of hospitals; the establishment and maintenance of dispensaries in non-panchayat areas and of dispensaries other than those classified as panchayat dispensaries in panchayat areas; and every other kind of medical relief in non-panchayat areas, and every other kind of medical relief not given by the panchayat in panchayat areas";

(5) in clause (i), for the portion beginning with the word "except" and ending with "rule 1-A", the following shall be substituted, namely :—

"except, in panchayat areas, such measures as may have been carried out by the panchayat under the Madras Village Panchayats Act, 1950";

(6) to clause (l), the following words shall be added, namely :—
"in panchayat areas and of all public markets in non-panchayat areas";

(7) to clause (m), the following words shall be added, namely :—
"in panchayat areas and of all fairs and festivals in non-panchayat areas";

(8) for clause (n), the following clauses shall be substituted, namely :—

"(n) the construction of drains and disposal of drainage water and sullage in any non-panchayat area;

(o) in any non-panchayat area, the cleansing of streets, the removal of rubbish heaps, jungle growth and prickly-pear, the filling in of disused wells, insanitary ponds, pools, ditches, pits or hollows; and other improvements of the sanitary condition;

(p) the provision of public latrines and arrangements to cleanse latrines, whether public or private, in any non-panchayat area;

(q) the opening and maintenance of burial and burning grounds in non-panchayat areas;

- (r) in non-panchayat areas, the sinking and repairing of wells, the excavation, repair and maintenance of ponds or tanks for supply of water for drinking, washing and bathing purposes and the construction of bathing ghats;
- (s) the opening and maintenance of public slaughter-houses in non-panchayat areas;
- (t) the establishment and maintenance in non-panchayat areas of wireless receiving sets, of playgrounds, of parks, of sports clubs and of centres of physical culture";
- (II) in sub-rule (3), for clause (d), the following clause shall be substituted, namely:—
 - "(d) all other measures of public utility calculated to promote the safety, health, comfort or convenience of the inhabitants of the district; and";
- (iv) rules 2 and 3 shall be omitted;
- (v) in rule 4, for the words "any other local board", the words "any panchayat" shall be substituted;
- (vi) (1) in rule 5, the words "village and" and "respectively" in the opening paragraph and the heading "A—Village Funds and all the items thereunder" shall be omitted; and for the heading "B—District Funds", the heading "District Funds", shall be substituted; and for items (1) and (1-A) under that heading, the following items shall be substituted, namely:—
 - "(1) The land-tax levied in the district, subject to the provisions of section 92."
 - (2) The profession tax levied in non-panchayat areas in the district under section 93.
 - (2-A) The pilgrim tax levied (i) in respect of any panchayat area in the district where the occasion for pilgrimage is a festival classified as a district festival, and (ii) in respect of any non-panchayat area in the district";
- (2) for item (3-A) under the same heading, the following items shall be substituted, namely :—
 - "(3-A) Fees levied (i) in public markets in panchayat areas which are classified as district markets, after deducting the contribution, if any, paid by the district board to the panchayat on the scale fixed by the Government, and (ii) in public markets in non-panchayat areas.
 - (3-B) The contribution paid to the district board by panchayats in respect of markets situated in panchayat areas which are not classified as district markets, on the scale fixed by the Government.
 - (3-C) Fees for the use of public landing places, halting places, cart-stands and slaughter-houses in non-panchayat areas; and fees for the temporary occupation of village-sites, roads, burial and burning grounds and other similar public places or parts thereof in non-panchayat areas.";
- (3) in item (5) under the same heading, for the words "in the district", the words "in panchayat areas" shall be substituted, and after the words "district choultries" the words "and of all choultries in non-panchayat areas" shall be added;
- (4) in item (7) under the same heading, for the words "and dispensaries classified as district hospitals and dispensaries", the words "of dispensaries in non-panchayat areas and of dispensaries in panchayat areas classified as district dispensaries" shall be substituted;
- (5) in item (12) under the same heading, after the words "all district roads", the words "and to all public roads in non-panchayat areas" shall be added;
- (6) in item (13) under the same heading, after the word "ferries", the words "and fisheries" shall be inserted;

(7) after item (18) under the same heading, the following item shall be inserted, namely:—

“(19) All sums other than those enumerated above which arise out of, or are received in aid of, or for expenditure on, and institutions or services maintained or financed from the district fund or managed by the district board.”

(vii) rule 6 shall be omitted;

(viii) in rule 8—

(1) in sub-rule (1), the words “and all moneys received by a panchayat shall be lodged either in the nearest Government Treasury or in the nearest Post Office Savings Bank” shall be omitted;

(2) clause (b) of sub-rule (2) shall be omitted and clause (a) thereof shall be renumbered as sub-rule (2), and in the sub-rule as so renumbered, the words “and a panchayat may with the sanction of the Inspector of Local Boards” shall be omitted;

(ix) in sub-rule (1) of rule 9, sub-clause (ii) of clause (b) shall be omitted and sub-clause (i) thereof shall be relettered as clause (b), and in the clause as so relettered, the words “in the case of district boards; or” shall be omitted.

121. In Schedule VIII—

(i) the item relating to section 102(1) shall be omitted;

(ii) after the item relating to section 153, sub-section (2), the following item shall be inserted, namely :—

“154 (1) . . . Keeping a dog or pig without licence or contrary to licence. Ten rupees.”

122. In Schedule IX, after the item relating to section 153, sub-section (2), the following item shall be inserted, namely :—

“154 (1) . . . Keeping a dog or pig without licence or contrary to licence. Two rupees.”

THE ORISSA GRAMA PANCHAYATS ACT, 1948

Orissa Act XV of 1948

An act to establish and develop Local Self-Government in the village communities of the province of Orissa and to make better provision for their administration

WHEREAS it is expedient to establish and develop Local Self-Government in village communities of the Province of Orissa and to make better provision for their administration;

It is hereby enacted as follows :—

CHAPTER I

PRELIMINARY

Short title,
extent and
commence-
ment.

1. (1) This Act may be called the Orissa Grama Panchayats Act, 1948.

(2) It shall extend to the whole of the ¹[State] of Orissa except to any area which has been or may be constituted hereafter a municipality under the provisions of the Bihar and Orissa Municipal Act, 1922, or the Madras District Municipalities Act, 1920, or which has been or may hereafter be declared as a Notified Area under the provisions of the Bihar and Orissa Municipal Act, 1922.

B. and O.
Act VII of
1922.
Madras Act
V of 1920.
B. and O.
Act VII of
1922.

(3) Section 1 shall come into force at once. The remaining provisions of this Act shall come into force, in whole or in part, in such specified areas comprised in a village or villages of a district or districts as the ¹[State] Government may, from time to time, appoint and different dates may be appointed for different specified areas and for different portions of this Act. The ¹[State] Government may also by notification withdraw the remaining provisions of this Act, in whole or in part, from any such specified areas.

Repeal or
amendment
of enact-
ments in
whole or
in part.

2. (1) On and from the date when the remaining provisions of the Act come into force in any specified areas, in whole or in part, the enactments specified in Schedule I shall, from the date of the notification, be repealed or amended in respect of the said specified areas to the extent and in the manner mentioned in the fourth column thereof :

Provided that until a new assessment is made under this Act, any assessment, rate or tax which was in force in the said areas under the provisions of the enactments specified in Schedule I shall continue to be in force and all sums due on account of such assessment, rate or tax shall be realised under the provisions of those enactments and credited to the Grama Fund constituted under section 39.

¹ Sub. by the Adaptation of Laws Order, 1950.

(2) When in consequence of the repeal of the enactments specified in Schedule I, any Panchayat or Union Board constituted in the said areas under any of those enactments ceases to exist, all the properties, funds and dues which are vested in such Panchayat or Union Board shall be vested in the Grama Panchayat or Grama Panchayats and in accordance with such allocation as may be determined by the District Magistrate whose orders thereon shall be final.

3. When the remaining provisions of the Act in whole or in part, are withdrawn from any specified area comprised in a village or villages in a district or districts, the enactments specified in Schedule I shall be deemed to be revived in the said specified areas in such village or villages to the extent to which they were modified by the said Schedule from the date of publication of the notification of withdrawal : Effect of withdrawal of the Act.

Provided that all taxes, fees, tolls and rates imposed under the provisions of this Act shall continue in force until a new assessment is made in accordance with the provisions of the enactments so revived, and all properties, funds and other dues vested in a Grama Panchayat shall be vested in such Panchayat, Union Board or any other local authority or person as may be determined by the District Magistrate, whose orders thereon shall be final.

4. In this Act, unless there is anything repugnant in the Definitions, subject or context,—

(a) "Adalti Panchayat" means an Adalti Panchayat established under section 57;

(b) "adult" means a person, male or female, who has completed his or her twenty-first year;

(c) "building" includes a hut, shed, house, shop, warehouse, workshop or other roofed structure for whatsoever purpose and of whatever material constructed but does not include a tent or other portable or temporary shelter;

(d) "case" means a criminal proceeding in respect of an offence triable by an Adalti Panchayat;

(e) "circle" means the area within which an Adalti Panchayat exercises jurisdiction;

(f) "Collector" or "District Magistrate" or "Sub-Divisional Magistrate" with reference to a Grama Sabha means the Collector, District Magistrate or Sub-Divisional Magistrate of the district or the sub-Division, as the case may be, in which such Grama Sabha is constituted;

(g) "District Board" with reference to a Grama Panchayat means a District Board established under the Bihar and Madras Local Self-Government Act, 1885, the Madras Local Boards Act, 1920, and the Sambalpur Local Self-Government Act, 1939, in the district in which such Grama Panchayat is constituted and includes any other authority constituted by law;

(h) "Grama Sabha" means a Grama Sabha established under section 5;

¹[(i) "Gram Fund" means a local fund constituted under section 40];

(j) "Grama Panchayat" means the executive committee of the Grama Sabha established under section 16;

(k) "Munsif" with reference to an Adalti Panchayat means the Munsif having local jurisdiction in the area in which such Adalti Panchayat is constituted;

(l) "population" means the population as determined in the manner prescribed in this behalf;

(m) "public servant" means a public servant as defined in section 21 of the Indian Penal Code;

XIV of 1860.

(n) "public street" means any road, street, bridge, lane, square, court, alley or passage which the public has a right to pass along and includes on either side the drains or gutters and the land up to the defined boundary of any abutting property, notwithstanding the projection over such land of any verandah or other superstructure;

(o) "prescribed" means prescribed by rules made under the Act;

(p) "prescribed authority" means the authority notified as such by the ²[State] Government;

(q) "proprietor" and "landholder" have the meanings respectively assigned to those expressions by the tenancy laws for the time being in force but do not include a person who by reason of any transfer is not entitled for the time being to receive rent or profits in respect of his share in the village, and in such a case mean the person who for the time being is entitled to receive such rent or profits;

(r) ³["Registrar of Co-operative Societies" means the Registrar appointed under the law relating to Co-operative Societies in force in any part of the ²[State] and includes any other officer appointed by him to exercise all or any of the powers and perform all or any of the duties of a Registrar of Co-operative Societies under this Act];

(s) "suit" means a civil suit triable by an Adalti Panchayat;

(t) "village" means any local area recorded as a village in the revenue records of the district in which it is situated.

CHAPTER II

ESTABLISHMENT AND CONSTITUTION OF GRAMA SABHAS

Establishment and constitution of Grama Sabhas and their local areas.

5. (1) The ²[State] Government may, for the purpose of introducing the village panchayat system establish a Grama Sabha for any village having a population of not less than fifteen hundred inhabitants. Such a Grama Sabha shall, subject to the provisions of section 6, consist of all adults ordinarily residing in such village :

¹ Ins. by s. 2 of Act XXIX of 1951.

² Sub. by the Adaptation of Laws Order, 1950.

³ Sub. by s. 2 of Act XX of 1951.

Provided that where several contiguous villages have population less than fifteen hundred each, the ¹[State] Government may establish one Grama Sabha for more than one such village with due regard to the fact that the total population of the villages for which the Grama Sabha is established may not ordinarily be less than one thousand inhabitants.

²[(2) The State Government shall declare the name and the local area of the Grama Sabha in the notification mentioned in sub-section (1) and may, at any time either on their own motion or on the representation of a District Board or of a Grama Sabha or of the residents of any village, by notification :—

- (a) include any area in a Grama Sabha; or
- (b) exclude any area from a Grama Sabha; or
- (c) divide any Grama Sabha into two or more Grama Sabhas; or
- (d) Unite two or more Grama Sabhas so as to form one Grama Sabha; or
- (e) otherwise alter or revise the limits of any Grama Sabha.]

Explanation.—A person shall be deemed to reside ordinarily in a village if he—

- (i) resides permanently in the village;
- (ii) has his dwelling house within its limits and occasionally visits it;
- (iii) having no dwelling house of his own resides in a building or a part of a building situated within its limits for not less than six months during a calendar year immediately preceding the date on which the Grama Sabha has been established or at any time thereafter during which he claims to be a member of the Grama Sabha; or
- (iv) maintains within its limits a dwelling house ready for occupation in charge of servants and occasionally occupies it.

6. An adult, notwithstanding that he is otherwise qualified, shall not be entitled to be or to remain a member of a Grama Sabha if he or she—

- (a) is of unsound mind, or
- (b) is suffering from leprosy or tuberculosis, or
- (c) is an undischarged insolvent, or
- (d) is convicted of an election offence under any law for the time being in force, or
- (e) has been sentenced to imprisonment for a term exceeding three months for an offence involving moral turpitude or ordered to give security for good behaviour under section 110 of the Code of Criminal Procedure, 1898 :

Disqualifications to membership of Grama Sabha.

Provided that the disqualification under clause (d) and clause (e) may be removed by an order of the ¹[State] Government or the prescribed authority.

Incorporation of Grama Sabha.

7. Every Grama Sabha shall, by the name notified in the Gazette under section 5, be a body corporate having perpetual succession and a common seal and shall, subject to any restriction or qualification imposed by or under this or any other Act, have power to acquire, accept a gift of, hold, administer and transfer property, both movable and immovable and to contract and shall by the said name sue or be sued.

Provided that a Grama Sabha shall not transfer any property held by it on trust, if such transfer is inconsistent with the terms of the trust.

Grama Sabha a permanent body.

8. (1) Every Grama Sabha shall be a permanent body not subject to dissolution, but it may be ²[reconstituted] in accordance with the provisions of section 12.

(2) Where by notification under section 5 any local area is included in the jurisdiction of a Grama Sabha such area shall thereby become subject to all notifications, rules, regulations, bye-laws and orders made under this or any other enactment in force in the local area aforesaid where the notification is issued.

Period of membership.

9. A person shall continue to be a member of a Grama Sabha until his death or his incurring any of the disqualifications under section 6 or in the case of a member described in sub-section (1) of section 5 until the relinquishment of his ordinary residence in the village :

Provided that a person described in sub-section (1) of section 5, who has ceased to be a member by reason of a disqualification under section 6 or relinquishment of ordinary residence in the village shall, on the removal of the disqualification or the re-taking up of his ordinary residence in the village, as the case may be, and on the application made by him to the Grama Sabha in this behalf, be re-enrolled as a member thereof.

Disqualification or defect in enrolment not to vitiate act or proceeding.

10. No disqualification or defect in the enrolment of a member of the Grama Sabha shall vitiate any act or proceeding of a Grama Sabha if the majority of the persons present at the time of the act being done or the proceeding being taken were duly qualified members thereof.

Proceeding not invalidated by reason of any vacancy.

11. No act or proceeding of a Grama Sabha shall be invalid by reason only of the existence of a vacancy in the membership of that Grama Sabha.

Effect of change in population or inclusion of the area

12. ³(1) In the event of any change in the population of the local area of a Grama Sabha, under clause (a), (b), (c), (d) or (e) of sub-section (2) of section (5) its constitution shall be changed and fresh election shall be held in the pres-

¹ Sub. by the Adaptation of Laws Order, 1950.

² Sub. by s. 3 of Act XXXIX of 1951.

³ Sub. by s. 4, *ibid.*

cribed manner but until such change in constitution takes effect the Grama Sabha shall continue to function notwithstanding anything to the contrary in section 5.] of a Grama Sabha in Municipalities etc.

(2) If the whole of the local area of a Grama Sabha is included in a municipality or notified area, the Grama Sabha shall cease and its assets and liabilities shall be disposed of in the manner prescribed. When a part of its local area is so included, its local area shall be reduced by that part.

13. (1) On the first establishment of a Grama Sabha the prescribed authority shall cause to be prepared a register of the population in the prescribed form of persons ordinarily residing in the local area of such Sabha and such register shall, among other things, contain the names of persons entitled under the provisions of section 5 to be members of the Grama Sabha on the date of its establishment. Arrangements for the first establishment of a Grama Sabha.

(2) The persons entered in the register aforesaid by the prescribed officer as members of a Grama Sabha shall be the first members of the Grama Sabha and this register shall be revised from time to time as may be prescribed.

14. If any difficulty arises in establishing and constituting a Grama Sabha in any local area, the [State] Government may, by order authorise any matter or thing to be done which appears to them to be necessary for the purpose of removing such difficulty. Removal of difficulty in the establishment of Grama Sabha.

CHAPTER III

THE GRAMA SABHA—ITS MEETINGS AND FUNCTIONS

15. (1) Every Grama Sabha shall hold one annual general and one half-yearly general meeting on such dates as may be prescribed. The Sarpanch, whose election is hereinafter provided may or upon a requisition in writing of not less than one-fifth of the members shall, call an extraordinary general meeting at any time. The time and place of all the meetings of the Grama Sabha shall be notified in the prescribed manner. Duties and functions of the Grama Sabha.

(2) Notwithstanding anything contained in sub-section (1) the ²[District Magistrate] shall have power to call a special meeting of the Grama Sabha in the prescribed manner.

16. (1) As soon as may be after its establishment, every Grama Sabha shall elect in the prescribed manner from among its members an Executive Committee which shall be known as the Grama Panchayat. ³[The Grama Panchayat shall] elect a Sarpanch and a Naib Sarpanch from among its members.

⁴[(2) The number of members of a Grama Panchayat shall be such as may be fixed by the District Magistrate subject to a minimum of eleven members ⁵[and maximum of twenty-five members] including the Sarpanch and the Naib Sarpanch.]

Sub. by the Adaptation of Laws Order, 1950.

Sub. by s. 3 of Act XX of 1951.

Ins. by s. 5 of Act XXXIX of 1951

Sub. by s. 2 of Act II of 1950.

Sub. by s. 4, *ibid.*

(3) The office of the members of the Executive Committee including that of the Sarpanch and the Naib Sarpanch shall be honorary. ¹[Such members shall hold office for a term of three years from the date of election and they shall be eligible for re-election. The term of three years for members and the Sarpanch and Naib-Sarpanch shall be deemed to include any period which may elapse between the expiration of the said three years and the first meeting of the newly elected members at which a quorum shall be present:

Provided that the State Government may, by notification, for sufficient cause stated therein, direct that the term of office of the members of any Grama Panchayat as a whole including its Sarpanch and Naib-Sarpanch be extended by such period not exceeding one year, as may be specified in the notification.]

(4) A servant whether whole-time or part-time, in the employ of the Government or any local authority or a person who is declared a tout under the Legal Practitioners Act, 1879, shall not be eligible to stand for election as a member of a Grama Panchayat or as a Sarpanch or a Naib Sarpanch. ^{XVIII of 1879.}

Explanation.—For the purpose of this sub-section a servant in the employ of the Government shall include village munsifs and other village officers appointed under the provisions of any other law for the time being in force.

Business of annual and half-yearly meetings.

²[17. The Grama Sabha shall, at the annual general meeting, consider the accounts and progress of works of the preceding year and at the half-yearly meeting shall consider the reports of business submitted to it by the Sarpanch on the progress of works in the preceding half-year and the programme of works for the coming half-year.]

³[18. * * * * *]

Term of office of a Sarpanch and Naib Sarpanch.

19. (1) The Sarpanch and the Naib Sarpanch shall hold office for a term of three years and they shall be eligible for re-election for one further term of three years.

(2) In the event of death, disqualification, resignation or removal of a Sarpanch or Naib Sarpanch, ⁴[* * *] a new Sarpanch or Naib Sarpanch shall be elected to the ⁵[* * *] vacancy and shall hold office for the unexpired portion of the term of office of the Sarpanch or Naib Sarpanch.

⁵[(3) * * * * *]

(4) The ⁶[State] Government shall, subject to the provisions of section 6, make rules regarding the qualifications of a Sarpanch and a Naib Sarpanch and the ground on which he may be removed.

Powers of Sarpanch.

20. (1) The Sarpanch shall, in the execution of his duties, give effect to the decisions of the Grama Panchayat :

Sub. by s. 3 of Act XX of 1951.

Sub. by s. 6 of Act XXXIX of 1951.

Omitted by s. 5 of Act XX of 1951.

Omitted by s. 6 of Act XX of 1951.

Ins. by s. 3 of Act II of 1950 but omitted by s. 6 of Act XX of 1951

Sub. by the Adaptation of Laws Order, 1950.

Provided that a Sarpanch may, proceed in accordance with the provisions of sub-section (2) if in his opinion any such decision—

- (a) is subversive of peace and order in the locality; or
- (b) results in manifest injustice or unfairness to an individual or body of individuals or a particular community; or
- (c) is generally against public interest.

(2) If the Sarpanch considers that any such decision is open to objection under any of the clauses of the preceding sub-section, he shall refer the matter to the Sub-Divisional Magistrate and thereafter act according to such directions as he may receive from such Magistrate.

CHAPTER IV

POWERS, DUTIES AND FUNCTIONS OF GRAMA PANCHAYAT

21. Subject to such exceptions as the ¹[State] Government may by special or general order direct, the Grama Panchayat shall within its area undertake the control and administration and be responsible for the following matters:—

Obligatory functions.

- (a) construction, repair, maintenance, cleansing and lighting of public streets;
- (b) medical relief and first-aid; segregation of infective lepers by starting village isolation centres;
- (c) sanitation, conservancy and taking curative and preventive measures to remove and to stop the spread and recurrence of epidemic or infectious diseases, construction and maintenance of public latrines; allotment of places for storing manure;
- (d) upkeep and supervision of buildings belonging to the Grama Panchayat or which have been transferred to it for management;
- (e) registering births, deaths and marriages and maintenance of the registers prescribed by or under the Act;
- (f) removal of encroachments on public streets, public places and property vested in Grama Panchayat;
- (g) protection of property vested in the Grama Panchayat;
- ²[(h) regulation of melas, fairs and festivals and subject to the provisions of sub-sections (2) and (5) of section 41, establishment and maintenance of markets, hats, cart-stands including stands

¹ Sub. by the Adaptation of Laws Order, 1950.

² Sub. by s. 8 of Act XXXIX of 1951.

for carriages or motor vehicles within the meaning of the Motor Vehicles Act, 1939, and animals within its area;]

Act IV of 1939.

- (i) primary schools for boys and girls, spread of education;
- (j) establishment, management and care of common grazing grounds and land for the common benefit of the village people, regulation and management of places for the disposal of the dead;
- (k) construction and repair and maintenance of public wells, tanks and ponds for the supply of water for drinking, washing and bathing purposes and regulation of sources of water-supply for drinking purposes and storage of water supplied for drinking purposes;
- (l) the construction and maintenance of roads-culverts, bridges and drainage, the disposal of drain water and sullage and maintenance of existing village rest-sheds;
- (m) regulating the construction of new buildings and the extension of the existing buildings;
- †[(n) destruction of stray and ownerless dogs;]
- (o) the maintenance of records relating to cattle census, population census and other statistics as may be prescribed;
- (p) fulfilling any other obligations imposed by law on a Grama Sabha;
- (q) the making of complaints in respect of any contravention of the provisions of the Child Marriage Restraint Act, 1929, if the ²[State] Government so direct;
- (r) supervision and maintenance of village boundary marks.

Discretion-ary functions. 22. Subject to such exceptions as the ²[State] Government may make by general or special order, a Grama Panchayat may, if a majority of its members so decide, with the previous approval of Government, and shall, if the ²[State] Government so direct, undertake within its area the control and administration of and be responsible for the following matters :—

- (a) planting and maintaining trees on the sides of a public street and on other public places vested in it;
- (b) maintaining village forests declared as such by a notification of the ²[State] Government for the purposes of this Act ;

¹ Sub. by s. 7 of Act XX of 1951.

² Sub. by the Adaptation of Laws Order, 1950.

- (c) the improved breeding and medical treatment of cattle and prevention of disease in them, construction and maintenance of slaughter houses;
- (d) filling in of insanitary depressions and levelling of land, reclaiming of unhealthy areas and village planning;
- (e) assisting and advising agriculturists in ¹[reclaiming waste land, cultivating fallow land and] obtaining Government loans and in distributing the same among themselves and in the repayment thereof, in the liquidation of the old debt and generally in the establishment of a sound credit system according to law and promotion of measures to relieve rural indebtedness and poverty;
- (f) development of co-operation and establishment of store for improved seeds and implements on co-operative lines, promotion of co-operative farming and marketing of agricultural produce and the establishment of Gowshalas and dairy farms on co-operative lines;
- (g) relief from famine or other calamity and relief of the destitute and the sick;
- (h) acting as agents of a District Board for performance of such functions in relation to the area of the Grama Sabha as are beyond the powers of the Grama Sabha;
- (i) establishment and maintenance of libraries, and reading rooms, radio sets and gramophones;
- (j) organising with the prior sanction of the ²[State] Government a body of Grama Sevaks for assisting the Grama Panchayat in the discharge of its functions in the matter of social services such as extinguishing village fire, protecting life and property when fire occurs, disposing of dead bodies and rendering such other social and philanthropic services as may be specified by the ²[State] Government from time to time.
- (k) maternity and child welfare and establishment of maternity and child welfare centres;
- (l) organisation and maintenance of Akharas and clubs and other places for recreation and games;
- (m) control and management of cattle pounds and ferries ³[. * * * *];
- (n) establishment and maintenance of works or the provision of employment in times of scarcity, establishment of granaries;

¹ Ins. by s. 4 of Act II of 1950.

² Sub. by the Adaptation of Laws Order, 1950.

³ Omitted by s. 8 of Act XX of 1951.

- (o) promotion of social and moral welfare including removal of untouchability, eradication of corruption and measures to discourage litigation and encourage arbitration;
- (p) promotion of and improvement and encouragement of cottage industries;
- (q) regulation of and abating of dangerous trades and practices;
- (r) construction and maintenance of Serais, Dharmasalas and village rest-sheds;
- (s) management and control of agricultural and industrial shows which are not managed by any other authority;
- (t) statistics of unemployment;
- (u) encouragement of human and animal vaccination;
- (v) any other measure of public utility calculated to promote the moral and material well-being or convenience of the villagers;
- (w) with the previous sanction of a District Board the doing of anything which falls within the functions of such District Board for the benefit of the persons living in the area of the Grama Sabha;
- (x) doing of anything the expenditure on which is declared by the ¹[State] Government or by a District Board with the sanction of the ¹[State] Government to be an appropriate charge on the Grama Sabha's fund; and
- (y) adult education.

Power of
Grama
Panchayat
as to public
streets,
waterways,
etc.

23. (1) Subject to the provisions of any other law for the time being in force, a Grama Panchayat shall have control on all public streets and waterways situate within its area not being private property and not being under the control of the ¹[State] Government or a District Board or any other authority specified by the ¹[State] Government and may do all things necessary for the maintenance and repair thereof and may—

- (a) construct new bridges or culverts;
- (b) divert, discontinue or close any public street, culvert or bridge;
- (c) widen open, enlarge or otherwise improve any public street, culvert, or bridge and with minimum damage to the neighbouring fields, plant and preserve trees on the sides of such street;
- (d) deepen or otherwise improve waterways;
- (e) with the sanction of the prescribed authority undertake small irrigation projects;

¹ Sub. by the Adaptation of Laws Order, 1950.

- (f) trim hedges and branches of trees belonging to any one and projecting on public streets;
- (g) notify the setting apart of any public water source for drinking or culinary purposes and likewise prohibit all bathing, washing of clothes and animals or other acts likely to pollute the course so set apart:

Provided that nothing in this clause shall be deemed to authorise a Grama Panchayat to interfere with a canal governed by any other law for the time being in force without the prior permission of the prescribed authority.

(2) Notwithstanding anything contained in any law or any rule, village administration paper or *Wajibularz* having the force of law, the control of village rest-sheds by whatever name designated may vest in the Grama Panchayat as provided in clause (1) of section 21 and clause (r) of section 22.

24. (1) For the improvement of sanitation a Grama Panchayat may require, by order, the owner or occupier of any land or building— Improve-
ment of
sanitation.

- (a) to close, remove, alter, repair, cleanse, disinfect or put in good order any latrine, urinal, water-closet, drain, cesspool or other receptacle for filth, sullage-water, rubbish or refuge pertaining to such land or building or to remove or alter any door or trap or construct any drain for any such latrine, urinal or water-closet which opens on to a street or drain, or to shut off such latrine, urinal or water-closet by a sufficient roof and wall or fence from the view of persons passing by or dwelling in the neighbourhood;
- (b) to cleanse, repair, cover, fill up, drain off, deepen, or remove water from a private well, tank, reservoir, pool, depression or excavation which may appear to the Grama Panchayat to be injurious to health or offensive to the neighbourhood;
- (c) to clear off any vegetation, under-growth, prickly pear or scrub-jungle therefrom;
- (d) to remove any dirt, dung, night-soil, manure, or any obnoxious or offensive matter therefrom and to cleanse the land or building :

Provided that a person on whom an order under clause (b) is served may, within thirty days of the receipt of the order, appeal to the District Health Officer against the said order and that Officer may vary, set aside or confirm it.

(2) A Grama Panchayat ¹[shall] in the prescribed manner—

- (a) regulate the collection, removal and disposal of manure and sweepings;
- (b) prohibit or regulate the deposit or storage of carcasses of animals or other offensive matter;

¹ Sub. by s. 9 of Act XX of 1951.

- (c) prohibit or regulate the curing, tanning and dyeing of skins.

Primary or basic schools and Unani or Ayurvedic or Homoeopathic hospitals and dispensaries.

25. (1) Subject to the prescribed rules a Grama Sabha may—

- (a) maintain any existing primary or basic school or establish and maintain a new one and it shall be responsible for the repairs of its building, upkeep of its furniture and stock and proper working of the school and may extend the building thereof, and
- (b) maintain any ¹[Allopathic] Ayurvedic or Unani or Homoeopathic hospital or dispensary or establish and maintain a new one and may provide for all ¹[such] systems of treatment in the same hospital or dispensary.

(2) The District Board and the ²[State] Government shall make such grants for such schools, hospitals and dispensaries as may be prescribed.

Joint committees for primary or basic schools and Unani or Ayurvedic or Homoeopathic hospitals and dispensaries.

26. Where a group of neighbouring Grama Panchayats have no primary or basic school ³[or Allopathic] or Ayurvedic or Unani or Homoeopathic hospital or dispensary, they shall, if so directed by the prescribed authority, combine to establish and maintain such a school, hospital or dispensary and shall manage the same in the prescribed manner. The ²[State] Government and District Board shall make such grants for such schools, hospitals and dispensaries as may be prescribed.

Prevention of child marriage and making of complaints.

27. (1) For the purpose of preventing the consummation of any marriage contrary to the provisions of the Child Marriage Restraint Act, 1929, the Sarpanch shall, on becoming aware of any proposal relating to the performance of such marriage, by notice duly served on the parties of the bride and the bridegroom or any adult belonging to either party residing within the local limits of his jurisdiction, direct that the marriage shall not be performed.

XIX of 1929

(2) If the parties fail to comply with any direction of the Sarpanch made under sub-section (1), the Sarpanch shall, notwithstanding any provision to the contrary contained in the Child Marriage Restraint Act, 1929, but subject to the provisions of section 9 of that Act, file a complaint in regard to the marriage in a competent court.

Assistance by Grama Sabha to general administration.

28. Any servant of the Government may, if so authorised by the ²[State] Government, by a general or special order require a Grama Panchayat to assist him in the prescribed manner in the performance of his duties within its area and the Grama Panchayat shall so assist him so far as it lies in its power.

¹ Ins. and sub. by s. 10 of Act XX of 1951.

² Sub. by the Adaptation of Laws Order, 1950.

³ Ins. by s. 11 of Act XX of 1951.

29. A Grama Panchayat may make any representation to the proper authority in respect of the welfare of the residents of its area.

Representations and recommendations by Grama Sabhas.

30. Subject to the prescribed rules, a Grama Panchayat may consent to receive from any person and take over any property vested in him or the management of any institution or the execution or maintenance of any work or the performance of any duty within the area over which the Grama Panchayat has control on such terms as may be mutually agreed upon in writing.

Power to take over management of institutions.

31. A Grama Panchayat may in the prescribed manner enter into a contract in respect of its area—

Power to contract for collection of taxes and other dues for proprietors.

- (a) with the ¹[State] Government to collect all or any class of taxes or dues payable to the Government on being allowed by the ¹[State] Government a prescribed percentage as collection charges, and
- (b) with all or any of the proprietors or landholders to collect rent on his or their behalf on being allowed the prescribed percentage as collection charges.

32. (1) Subject to the prescribed rules, a Grama Panchayat shall appoint a Secretary and may also prepare a scheme containing its proposals for the employment of whole-time or part-time staff, for the salaries and allowances, if any, to be paid to them and for the duties to be assigned to each one of them and shall submit the same to the prescribed authority who shall have power to approve, modify or reject the scheme. The Grama Panchayat may then appoint a servant or servants in accordance with the scheme as approved by the prescribed authority.

Staff.

(2) Subject to the previous approval of the prescribed authority, a Grama Sabha may make any change in the scheme aforesaid.

(3) Notwithstanding anything contained in sub-section (1) a Grama Panchayat may, in case of an emergency, appoint a servant whose salary shall not exceed Rs. 20 a month without the sanction of the prescribed authority, for a period of not exceeding three months.

(4) The power to appoint, remove, discharge or dismiss a servant shall be exercised by the Grama Panchayat only and shall not be delegated to any one else. The power to suspend or otherwise punish or take any other disciplinary action against a servant may be exercised either by the Grama Panchayat or subject to the prescribed right of appeal, by any of its office-bearers in the manner prescribed, if so authorised by the Grama Panchayat.

¹Sub. by the Adaptation of Laws Order, 1950.

Meetings of
the Grama
Panchayat.

33. (1) The Grama Panchayat shall meet once every month and may hold extraordinary meetings if circumstances so require.

¹[(2) At its first meeting the Grama Panchayat shall appoint such Secretary as may be necessary as provided in section 32].

(3) Every office-bearer shall have powers, duties and functions as may be prescribed or delegated without prejudice to the provisions of sub-section (4) of section 32 by the Grama Panchayat, shall be subject to such control and a supervision of the Grama Panchayat as may be prescribed and shall receive no remuneration or allowance from the Grama Sabha except with the sanction of the ²[State] Government or in the prescribed manner.

Right of
individual
members.

34. Every member of a Grama Panchayat shall have a right to move resolutions and to question any office-bearer on matters connected with the administration of the Grama Panchayat subject to such rules as may be prescribed.

Liability of
members of
Committee.

35. (1) Every member of a Grama Panchayat or of any Joint Committee or any other Committee constituted under this Act shall be liable for the loss, waste or misapplication of any money, or property belonging to the Grama Panchayat if such loss, waste or misapplication is a direct consequence of his neglect or misconduct while a member of the Grama Panchayat, Joint Committee or other Committee and a suit for compensation may be instituted against him by the Grama Panchayat with the previous sanction of the prescribed authority.

(2) If the prescribed authority sanctions the institution of a suit under sub-section (1), or refuses to grant the sanction the member concerned or the Grama Panchayat, as the case may be, may, within thirty days of such sanction or refusal, appeal to the ²[State] Government or an appellate prescribed authority against the said sanction or refusal.

(3) The ²[State] Government shall also have power to institute a suit mentioned in sub-section (1) on its own initiative.

Members
and servants
of the
Panchayat
to be
deemed
public
servants.

36. All members of a Grama Panchayat or of a Joint Committee or any other Committee constituted under this Act or of an executive Committee or an Adalti Panchayat and servants of a Grama Panchayat shall be deemed to be public servants and in the definition of legal "remuneration" in section 161 of the Indian Penal Code, the word "Government" shall, for the purposes of this section, be deemed to include a Grama Sabha and Panchayat. XLV of 1960.

Committee.

37. Subject to the prescribed conditions a Grama Panchayat may establish a committee to assist it in the discharge of any specified duties or class of duties and may

¹ Sub. by s. 5 of Act II of 1950.

² Sub. by the Adaptation of Laws Order, 1950.

delegate to any such committee any of the powers of the Grama Panchayat which may be necessary for the purposes of rendering such assistance.

38. (1) Subject to such rules as may be prescribed, two or more Grama Panchayats may combine by means of a written instrument subscribed by them to appoint a Joint Committee consisting of their representatives for the purpose of transacting any business in which they are jointly interested and may—

- (a) delegate to such Committee power, with such conditions as they may think proper to impose, to frame schemes binding on each such Grama Panchayat as to the construction and future maintenance of any joint work and the power which may be exercised by any such Panchayat in relation to such scheme; and
- (b) frame or modify rules regarding the constitution of such Committee and the term of office of members thereof and the method of conducting proceedings and correspondence thereof.

(2) If any difference of opinion arises amongst the Grama Panchayats acting under this section it shall be referred to the prescribed authority whose decision thereon shall be final.

CHAPTER V

ACQUISITION OF LAND, THE GRAMA FUND AND PROPERTY

39. Where a Grama Panchayat or a number of Grama Panchayats which have combined under the provisions of section 26 or 38 require land to carry out any purpose of this Act, it or they shall first negotiate with the person or persons having interest in such land and if the parties fail to arrive at an agreement such Grama Panchayat or Grama Panchayats may make an application in the prescribed form to the Collector to acquire the land and the Collector may order the acquisition of land in the prescribed manner.

Explanation.—In this chapter the expression “land” includes immovable property of every kind.

40. (1) A Grama Fund shall be constituted for every Grama Sabha and to the credit of the said Fund shall be placed—

- (a) the proceeds of any tax, toll, fee or rate imposed under the provisions of this Act;
- (b) all fines imposed and realised under this Act in respect of offences committed within the jurisdiction of the Grama Sabha, in proceedings instituted under this Act, or under any other Act or rules in which provision is made for the credit of such fines to the Grama Fund;
- (c) the balance, if any, standing to the credit of the Union Board or Panchayat previously in existence in the local area of the Grama Sabha

under any law for the time being in force and allocated by the District Magistrate as provided in sub-section (2) of section 2;

- (d) all sums ordered by a court to be placed at the credit of the Grama Fund;
- (e) the sale-proceeds of all dust, dirt, dung or refuse including the dead bodies of animals, collected by the Grama Panchayat servants;
- (f) such portion of the rent or other proceeds of Government property as the ¹[State] Government may direct to be placed to the credit of the Grama Fund;
- (g) sums contributed to the Grama Fund by any District Board or other Local authority;
- (h) all sums received by way of loan or gift;
- (i) such other sums as may be assigned to the Grama Fund by any special or general order of the ¹[State] Government;
- (j) one-third of the local cess, land cess and additional cess levied under the Bihar and Orissa Local Self-Government Act, 1885, the Madras Local Boards Act, 1920, and the Sambalpur Local Self-Government Act, 1939, as shall be assigned in the prescribed manner.

Bengal Act
III of 1885-
Madras Ac
XIV of 1920-
Orissa Act
VI of 1939.

(2) Nothing in this section shall affect any obligation of a Grama Sabha arising from a trust legally imposed upon or accepted by it.

Property
vested in
the Grama
Sabha.

41. (1) Subject to any special reservation made by the ¹[State] Government, all public property situated within the area of a Grama Sabha ²[shall be vested] in and belong to the Grama Sabha and shall with all other property which may become vested in the Grama Sabha be under its direction, management and control.

²[(2) Subject to such previous sanction of the State Government all markets and fairs or such portion thereof as are held upon public land may be transferred to the Grama Panchayat and they shall then be managed and regulated by the Grama Panchayat and the Grama Sabha shall receive to the credit of the Grama Fund all dues levied or imposed in respect thereof.]

³[(3) The State Government may, subject to such conditions and control as may be imposed by them, transfer to any Grama Sabha the protection and maintenance of any village irrigation works, the management and turns of irrigation or the regulation of the distribution of water from any irrigation works.]

¹ Sub. by the Adaptation of Laws Order, 1950.

² Sub. by s. 12 of Act XX of 1951.

³ Ins. by s. 9 of Act XXXIX of 1951.

(4) The State Government may, subject to such conditions as may be prescribed, transfer to the Grama Sabha the management, protection and maintenance of village forests whether reserved for fuel, fodder or other purposes.

(5) A District Board may transfer a market, hat or cart-stand to a Grama Sabha and they shall then be managed and regulated by the Grama Panchayat and the Grama Sabha shall receive to the credit of the Grama Fund all dues levied in respect thereof.]

42. Where any dispute arises as regards the ownership of any property mentioned in section 41 between a Grama Sabha and any person, the Grama Panchayat shall give such person reasonable opportunity of being heard and then decide by an order recorded in writing whether to treat the said property as the property of the Grama Sabha. Disposal of claims.

43. With the sanction of the prescribed authority and subject to such conditions as may be prescribed by the ¹[State] Government, a Grama Sabha may borrow money from the ¹[State] Government to carry out any of its purposes. Power to borrow.

44. (1) Subject to the prescribed rules a Grama Panchayat shall impose upon the owner of immovable property and occupier of any building within its local area a tax according to the circumstances and the property of such owner and occupier : Taxes which may be imposed.

Provided that such owner or occupier may be wholly exempted from assessment if in the opinion of the Grama Panchayat he is too poor to pay.

(2) With the previous sanction of the ¹[State] Government and subject to such maximum and minimum rates as may be prescribed a Grama Panchayat may impose the following tax, toll, fee or rate—

(a) a licence-fee on brokers, commission agents, weighmen and measures practising their calling within the local area of the Panchayat;

²[(b) * * * * *];

(c) rent from dealers temporarily occupying open grounds or any structure or building belonging to or maintained by the Panchayat;

(d) fees on the registration of animals sold within the local area;

(e) fees for the right to expose goods for sale in any market or for use of any building or structure therein;

(f) fees for the use of slaughter houses ³[and cart-stands] maintained by the Grama Panchayat;

¹ Sub. by the Adaptation of Laws Order, 1950.

² Omitted by s. 13 of Act XX of 1951.

³ Ins. by s. 10, *ibid.*

- (g) a latrine or conservancy tax payable by the occupier or owner upon private latrines, privies or cess-pools or upon premises or compounds cleansed by the Panchayat agency;
- ¹[(gg) a profession tax subject to the provisions of section 2 of the Professions Tax Limitation Act, 1941, on every company, firm, association or the joint Hindu family or every person exercising a profession, trade or calling or transacting business or holding appointment public or private in the local area of the Grama Sabha for a period not less than sixty days in the aggregate.]
- (h) fees for use of Serais, Dharmasalas, rest-sheds and slaughter houses ²[vested in the Grama Panchayat];
- (i) a water rate where water is supplied by the Grama Panchayat;
- (j) a fee payable by owners of vehicles where such vehicles are kept in Grama Panchayat area;
- (k) a lighting rate where the lighting of public streets and places and buildings is undertaken by Grama Panchayat;
- (l) a drainage fee where a system of drainage has been introduced by the Grama Panchayat; and
- (m) any other tax, toll, fee or rate approved by the ³[State] Government.

(3) No tax, toll, fee or rate provided under sub-sections (1) and (2) shall be imposed by the Grama Panchayat if they have been already imposed by any District Board prior to the commencement of the Act in the said area.

(4) The ⁴[District Magistrate] may on the application of any party against whom any tax, toll, fee or rate has been imposed or on his own motion, review or revise the tax, toll, fee or rate.

(5) If, in the opinion of the ⁴[District Magistrate], the income of a Grama Panchayat is or is likely to be inadequate for the proper discharge of the duties imposed under section 21 or undertaken under section 22, he may, by an order in writing, require the Grama Panchayat to take steps within six months of a date to be specified in the order to increase its income to such extent as he considers necessary and if the Grama Panchayat fails to comply with the order, he may by a further order in writing require it to levy or increase any tax, toll, fee or rate specified in sub-section (2) subject to the conditions and restrictions contained thereunder.

Compulsory
labour.

⁵[45. For the purpose of enforcing for any public purposes free manual labour by all able-bodied persons between the age of eighteen and fifty ordinarily residing in its area, the Grama Panchayat shall impose a labour tax on all such

¹ Ins. by s. 6 of Act II of 1950.

² Added by s. 13 of Act XX of 1951.

³ Sub. by the Adaptation of Laws Order, 1950.

⁴ Sub. by s. 13 of Act XX of 1951.

⁵ Sub. by s. 11 of Act XXXIX of 1951.

persons in a prescribed manner. Such taxes shall be payable in cash at a rate equivalent to double the rate of manual labour prevailing at the time in the villages as may be determined by the Grama Panchayats :

Provided that no such tax shall be payable by such a person if he renders such labour either himself or by a proxy for a fixed number of days not exceeding four days in any one year or two days at a stretch in the said year.]

46. The Grama Panchayat shall arrange for the realisation of Panchayat taxes and dues, custody of funds and maintenance of accounts, according to the prescribed rules.

Realisation of dues, custody of funds and accounts.

47. (1) The expenses of the Adalti Panchayat shall be charged to the Grama Fund of each unit in a circle in equal ¹[share].

Incidents of a Grama Fund.

(2) All fines realised in cases tried and disposed of by an Adalti Panchayat shall be credited to the Grama Fund of each unit of the circle in equal ¹[shares].

48. (1) The Grama Panchayat shall keep regular accounts for all receipts to and disbursements from the Grama Fund. Such accounts shall be audited annually or at such other prescribed intervals by the ²[Registrar of Co-operative Societies] or by auditors specially appointed by ²[him] in this behalf. Auditors so appointed shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

Audits and Accounts.

(2) The ²[Registrar of Co-operative Societies] or the Auditor, as the case may be, shall after completing the audit submit a report to the prescribed authority and that report shall, among other things, specify all cases of irregular, illegal or improper expenditure, or of failure to recover moneys or other property due to the Panchayat or of loss or waste of money or other property of the Grama Sabha caused by neglect or misconduct. The auditor shall also report on any other matter which the prescribed authority may require in respect of any specified Grama Panchayat.

Orissa Act V of 1948. ²[(3) The provisions of the Orissa Local Fund Audit Act, 1948, and rules thereunder shall apply to the accounts of the Grama Fund and the Examiner of local Accounts shall mean the Registrar of Co-operative Societies in regard to Grama Fund.]

²[(4) The Registrar of Co-operative Societies shall cause to be made in accordance with the prescribed rules a periodical audit of the accounts of the Grama Panchayat and the Adalti Panchayat.]

Budget.

¹ Sub by s. 14 of Act XX of 1951.

² Sub. and inserted by s. 15 of Act XX of 1951.

¹[49. (1) The Sarpanch shall in each year prepare and place before the Grama Panchayat a budget estimate showing its probable receipts and expenditures for the following year, and the Grama Panchayat shall sanction the budget with such modifications, if any, as it thinks fit.

(2) The budget of a Grama Panchayat shall, after being so sanctioned, be submitted on or before such date, as may be prescribed, to the District Magistrate and if he is satisfied that adequate provisions have not been made therein for the performance of any necessary service or services, he shall have power to modify the budget in such manner, as may be necessary to secure such provisions.]

²[CHAPTER V-A

INDUSTRIES AND FACTORIES (INCLUDING DANGEROUS AND OFFENSIVE TRADES, OCCUPATION OR PROCESSES)

Purposes for which places may not be used without licence.

49-A. (1) With the previous sanction of the ³[State] Government and notwithstanding anything contained in any other law for the time being in force, Grama Panchayat may notify that no place within the local area of the Grama Sabha shall be used without licence granted by it and except in accordance with the conditions specified in such licence, for any one or more of the following purposes, namely :—

- (a) washing soiled clothes and keeping soiled clothes for the purpose of washing them and washed clothes;
- (b) boiling camphor;
- (c) preparing chua;
- (d) melting tallow or sulphur;
- (e) dissolving silver and gold with nitric acid;
- (f) storing, boiling or otherwise dealing with manure, offal, blood, bones, hides, fish, skins, horns or rags;
- (g) tanning hides and skins, skinning or disembowelling of animals;
- (h) washing or drying wool or hair;
- (i) preparing fish-oil, hydrogenated oils, ghee, butter and such other fat preparations;
- (j) making soap, dyeing, boiling or pressing oil;
- (k) manufacturing or distilling sago or keuda water, manufacturing artificial manure, manufacturing or refining sugar, manufacturing sugar candy or jaggery, tanning or manufacture of leather or leather goods, manufacturing lac, manufacturing beedies;
- (l) manufacturing gun-powder or fire-works;
- (m) burning bricks, tiles, pottery or lime;

¹ Sub. by s. 12 of Act XXXIX of 1951.

² Ins. by s. 7 of Act II of 1950.

³ Sub. by the Adaptation of Laws Order, 1950.

- (n) keeping a public halting place, Dharmasala, sarai, choultry or other rest-house, keeping hotel, restaurant, eating-house, coffee-house, tea-stall, boarding-house or lodging-house (other than a students' hostel under public or recognised control);
- (o) keeping a shaving or hair dressing saloon;
- (p) keeping together twenty or more sheep or goats or ten or more pigs or heads of cattle;
- (q) preparing flour or articles made of flour for human consumption or sweetmeats;
- (r) manufacturing ice or aerated water;
- (s) selling timber or storing it for sale, storing or selling coal, storing hay, straw, wood, thatching grass, jute, coke, coal or charcoal or other dangerously inflammable materials;
- (t) selling grain, groundnut, chillies or jaggery wholesale or storing any of the said articles for wholesale trade;
- (u) storing any explosive or combustible material, storing kerosene, petroleum, naphtha or an inflammable oil or spirit;
- (v) manufacturing anything from which offensive or unwholesome smell arises or which has been declared by the ¹[State] Government, by notification to be dangerous or offensive;
- (w) using for any industrial purpose any fuel or machinery; and
- (x) in general, doing in the course of any industrial process anything which is likely to be offensive or dangerous to human life or health or property :

Provided that no licence shall be required for the storage of timber, firewood, thatching materials, hay, grass, straw, fibre, coke, coal or charcoal or boiling paddy where such storage or boiling is for private use:

Provided further that no notification under this subsection shall take effect till sixty days from the date of publication thereof.

(2) The owner 'or occupier' of every such place shall within thirty days of publication of such notification apply to the Grama Panchayat for a licence for the use of such place for such purposes.

(3) The Grama Panchayat may, by an order and under such restrictions and regulations as it thinks fit, grant such licence or refuse to grant it.

(4) Every such licence shall expire at the end of the year unless for special reasons the Grama Panchayat considers it should expire at an earlier date, when it shall expire at such earlier date as may be specified therein.

¹ Sub. by the Adaptation of Laws Order, 1950.

(5) Application for renewal of such licences shall be made not less than thirty days before the end of every year and applications for licence for places to be newly opened shall be made not less than thirty days before they are opened.

(6) (a) The power of the Grama Panchayat to grant a licence for the purpose of manufacturing gun-powder or fire-works or storing any explosive or combustible materials specified in clauses (l) and (u) of sub-section (1) shall be subject to the provisions of the Indian Explosives Act, 1884, and the rules framed thereunder and no such licence shall be granted unless the said provisions have been complied with by the applicant for the licence.

(b) The power of the Grama Panchayat to grant a licence for the purpose of storing kerosene, petroleum, naphtha or any other inflammable oil or spirit specified in clause (u) of sub-section (1) shall be subject to the provisions of the Petroleum Act, 1934, and the rules framed thereunder and no such licence shall be granted unless the said provisions have been complied with by the applicant for the licence.

Application to be made for constructions, establishment or installation of factory, workshop or workplace in which steam or other power is to be employed.

49-B. (1) Every person intending—

- (a) to construct or establish any factory, workshop or workplace in which it is proposed to employ steam power, water power or other mechanical power or electrical power, or
- (b) to install in any premises any machinery or manufacturing plant driven by steam, water or other power as aforesaid, shall before beginning such construction, establishment or installation make an application in writing to the Grama Panchayat for permission to undertake the intended work.

(2) The application shall be accompanied by—

- (i) a plan of the factory, workshop, workplace or premises prepared in the prescribed manner, and
- (ii) such particulars as to the power, machinery, plant or premises as may be required by bye-laws made in this behalf by the District Board.

(3) The Grama Panchayat shall as soon as may be after the receipt of the application—

- (a) grant the permission applied for either absolutely or subject to such conditions as it thinks fit to impose, or
- (b) refuse permission, if it is of opinion that such construction, establishment or installation is objectionable by reason of the density of the population in the neighbourhood or that it is likely to be injurious to public health or to cause a nuisance.

(4) Before granting permission under sub-section (3) the Grama Panchayat—

- (a) shall obtain the approval of the Inspector of Factories appointed under the Factories Act, 1948, having jurisdiction in the local area or if there is more than one such Inspector, of the Inspector designated by the ¹[State] Government in this behalf by general or special order as regards the plan of the factory, workshop, workplace or premises with reference to—
 - (i) the adequacy of the provision for ventilation and light;
 - (ii) the sufficiency of the height and dimensions of the rooms and doors;
 - (iii) the suitability of the exists to be used in case of fire;
 - (iv) the proper disposal of effluents from such mills and factories; and
 - (v) any other prescribed matter; and
- (b) shall consult and have due regard to the opinion of District Health Officer as regards the suitability of the site of the factory, workplace, workshop or premises for the purpose specified in the application.

49-C. (1) If in any factory, workshop, workplace in which steam power, water power or other mechanical power or electrical power is used, nuisance is caused by reason of the particular kind of fuel employed or by reason of the noise or vibration created or by reason of insanitary conditions in and around the factory affecting the public health, the Grama Panchayat may issue such directions as it thinks fit for the abatement of the nuisance and rectifying the sanitary defects within a reasonable time to be specified for the purpose.

Power of Grama Panchayat to issue directions for abatement of nuisance caused by steam or other power.

(2) If there has been wilful default in carrying out such directions or if abatement is found impracticable the Grama Panchayat may—

- (a) prohibit the use of the particular kind of fuel employed, or
- (b) restrict the noise or vibration by prohibiting the working of the factories, workshop or workplace between the hours of 9-30 p.m. and 5-30 a.m.

(3) Nothing in this section shall be deemed to empower the Grama Panchayat to pass an order which will be contrary to the provisions of the Factories Act, 1948, or the rule framed thereunder.

49-D. The ¹[State] Government may, either generally or in any particular case, make such order or give such directions as they may deem fit in respect of any action taken or omitted to be taken under section 49-B or section 49-C.

Power of ¹[State] Govt. to pass orders or give directions to Grama Panchayat.

¹ Sub. by the Adaptation of Laws Order, 1950.

Power of the Sarpanch to enter factory, workshop or workplace. **49-E.** (1) Subject to the provision of inspection in any other laws for the time being in force the Sarpanch of a Grama Panchayat or any person authorised by him in this behalf, may enter any factory, workshop or workplace—

(a) at any time between sunrise and sunset; and

(b) at any time by day or by night, if he has reason to believe that any offence is being committed against section 49-B or section 49-C.

(2) No claim shall lie against any person for any damage or inconvenience necessarily caused by the exercise of powers under this section or by the use of any force necessary for the purpose of effecting an entrance under this section.

No enclosed place or building to be used as public resort without licence.

49-F. With the previous sanction of the ¹[State] Government, a Grama Panchayat may notify that no enclosed place, building or tent situated therein and covering an area of five hundred square feet or upwards shall be used by any person or party for the purpose of public resort or entertainment, the admission where to is regulated by payment of money, without obtaining a licence from it in the prescribed manner.

Fees for licences under this chapter.

49-G. The Grama Panchayat may, subject to such maximum as may be determined by the ¹[State] Government by notification in that behalf, levy a fee in respect of any licence ²[or permission] under this Chapter and the renewal thereof and may impose such conditions and restrictions on such licence as it may think necessary.

Penalty under this Chapter.

49-H. Every person who, having the immediate control of any place or building within the local area of the Grama Sabha, permits it to be used for any of the purposes in respect of which a licence is required under this Chapter without having obtained a licence therefor or having obtained a licence under this Chapter permits such use in contravention of any of the conditions of such licence, shall be liable on conviction to a fine which may extend to one hundred rupees for the first offence, and if the offence be a continuing one, with a further fine which may extend to five rupees for every day after the first conviction during which an offender is proved to have persisted in the commission of the offence.]

CHAPTER VI

PANCHAYAT POLICE

Appointment of dafadars and choudharies.

50. Notwithstanding anything contained in any law for the time being in force, the District Magistrate shall, subject to the control of the Revenue Commissioner, from time to time appoint after consideration of the proposals of the Grama Panchayat the requisite number of dafadars and

¹ Sub. by the Adaptation of Laws Order, 1950.

² Ins. by s. 16 of Act XX of 1951.

choukidars to be employed within each Grama Panchayat and determine the salaries to be paid to them and the nature and cost of their equipment.

51. The salaries and cost of equipment of dafadars and Payment of salaries, etc., of dafadars and choukidars shall be paid by the Grama Panchayat from out of the taxes imposed under sub-section (1) of section 44 and dafadars and choukidars shall receive their salaries and equipment at such time and place and in such manner as may be prescribed.

52. (1) The Grama Panchayat shall, when a vacancy exists nominate a person to be a dafadar or a choukidar under this Act and the District Magistrate shall, if satisfied with such nomination, appoint such nominee : Appointment and dismissal of dafadars and choukidars.

Provided that if the Grama Panchayat fails within a reasonable time to nominate a person to be the dafadar or choukidar, or if the District Magistrate is not satisfied with such nomination, the District Magistrate shall appoint any person whom he thinks fit to be the dafadar or choukidar.

(2) The District Magistrate, or the Grama Panchayat with the sanction of the District Magistrate, may dismiss any dafadar or choukidar.

53. (1) The Grama Panchayat may punish any dafadar or choukidar who is guilty of misconduct in his office or neglect of duty with a fine not exceeding one-quarter of a month's salary. Power to fine dafadar and choukidar.

(2) The District Magistrate may revise any order passed by the Grama Panchayat under sub-section (1) and may punish any dafadar or choukidar who is guilty of misconduct or neglect of duty with a fine not exceeding one month's salary.

54. (1) Subject to the control of the dafadar every choukidar shall exercise the following powers and perform the following duties :— Power and duties of dafadar and choukidar.

(i) he shall give immediate information to the officer-in-charge of the police-station within the limits of which the Grama Panchayat is situated and to the Sarpanch of a Grama Panchayat of every unnatural, suspicious or sudden death which may occur and of any offence specified in Schedule II which may be committed within the local area of the Panchayat and he shall keep the police and the Sarpanch of a Grama Panchayat informed of all dispute which are likely to lead to a riot or serious affray ;

(ii) he shall arrest—

(a) all proclaimed offenders,

(b) all persons whom he may find in the act of committing any offence specified in Schedule II,

- (c) any person against whom a hue and cry has been raised of his being concerned in any offence specified in Schedule II whether such offence has been or is being committed within or outside his jurisdiction,
- (d) any person in whose possession anything is found which may reasonably be suspected to be stolen property or who may reasonably be suspected of having committed an offence with reference to such thing, and
- (e) any person who obstructs a police officer while in the execution of his duty, or who has escaped or attempts to escape from lawful custody;
- (iii) he shall, to the best of his ability, prevent and he may interpose for the purpose of preventing the commission of any offence specified in Schedule II;
- (iv) he shall assist private persons in making such arrests as they may lawfully make and he shall report such arrests without delay to the officer-in-charge of the aforesaid police-station;
- (v) he shall observe and from time to time report to the said officer the movements of all bad characters within the Grama Panchayat;
- (vi) he shall report to the said officer the arrival of suspicious characters in the neighbourhood;
- (vii) he shall report to the Grama Panchayat the births and deaths which have occurred within the local area of the Panchayat;
- (viii) he shall supply any local information which the District Magistrate or any police officer may require;
- (ix) he shall obey the orders of the Grama Panchayat in regard to keeping watch within the local area of the Panchayat and in regard to other matters connected with his duties as choukidar;
- (x) he shall give immediate information to the Grama Panchayat of any encroachment on, or obstruction to, any road within the local area of the Panchayat and of any damage to any property under the control of the Grama Panchayat;
- (xi) he shall assist the Panchayat in making collections under the Act;
- (xii) he shall serve such processes upon person resident within the Grama Panchayat as may be prescribed;
- (xiii) he shall carry out such other duties as may be entrusted to him from time to time in accordance with this Act or any rules made thereunder; and

(xiv) he shall keep watch over the boundary marks and annually verify them, report to the Grama Panchayat any loss or damage caused to the boundary marks of defining villages.

(2) The dafadar shall exercise all the powers conferred on a choukidar under sub-section (1) and shall perform such duties as may be prescribed.

55. Whenever the dafadar or choukidar arrests any person under section 54 he shall forthwith take the person so arrested to the police station within the limits of which the Grama Panchayat is situated: Procedure on arrest by dafadar or choukidar.

Provided that, if the arrest is made at night, such persons shall be so taken as soon as convenient on the following morning.

56. All fines realised from the dafadar or choukidar under section 53 shall be credited to the Grama Fund constituted under section 40. Fines to be credited to Grama Fund.

CHAPTER VII

ADALTI PANCHAYATS

57. The ¹[State] Government or the prescribed authority may, in accordance with the prescribed rules, divide a district into circles comprising as many local areas subject to the jurisdiction of Grama Sabhas as may be expedient in their opinion and shall establish an Adalti Panchayat for each such circle as hereinafter provided. Circle for Adalti Panchayat.

²58. Every Grama Sabha in a circle as described in section 57 shall elect three adult members of prescribed qualifications ordinarily residing in its local area to act as Panches in the Adalti Panchayat of that circle. The Panches so elected by all the Grama Sabhas of a circle shall form a panel : Constitution of Adalti Panchayats.

Provided that if in a circle there is only one Grama Sabha the three adult members elected as aforesaid shall constitute the Panches of the Adalti Panchayat of that circle and the ¹[State] Government may by rules provide for the transfer of a suit or proceeding from the said Panchayat to any other Panchayat or to any Civil or Criminal Court, if any of those Panchayats is disqualified from hearing that suit or proceeding for the grounds specified in sub-section (3) of section 62.]

59. (1) All the Panches ³[elected] shall elect from amongst themselves a person who is able to record proceedings to act as President of the Adalti Panchayat. President of Adalti Panchayat.

(2) All disputes arising out of such election shall be referred to the prescribed authority whose decision shall be final and shall not be questioned in a court of law.

¹ Sub. by the Adaptation of Laws Order, 1950.

² Sub. by sec. 17 of Act XX of 1951.

³ Sub. by sec. 18, *ibid.*

Term of
office of a
Panch of
the Adalti
Panchayat.

60. The term of office of every Panch shall be three years from the date of his election:

Provided that a Panch may by resignation addressed to the prescribed authority resign his office.

Removal of
a Panch of
the Adalti
Panchayat.

61. A Panch may be removed by the prescribed authority in the prescribed manner for prescribed reasons.

Constitution
of Bench.

62. (1) Three Panches from the panel selected in the prescribed manner shall form the Bench of the Adalti Panchayat.

(2) Every such Bench shall include one Panch who lives in the local area of the Grama Sabha in which anyone of the parties to the suit, case or proceeding before the Adalti Panchayat resides and one Panch who lives in the local area of the Grama Sabha in which none of the parties reside.

(3) No Panch ¹[* * *] shall take part in any proceeding in which he or any near relation of his is a party or in which he is personally interested.

²[*Explanation.*—In the case where a Panch is a practising lawyer and a party to a suit or proceeding before the Adalti Panchayat is at the time or was within six months prior thereto a client of such Panch, he shall be deemed to be personally interested within the meaning of this sub-section.]

(4) Notwithstanding the provisions of this section, the ³[State] Government may by rules prescribe the constitution of Special Benches for determining disputes which may arise between parties or Grama Sabhas of different circles or for any other purpose.

(5) Where a vacancy in the office of a Panch arises by reason of his death, removal or resignation, it shall be filled in the manner provided in section 58 and if the Panch vacating the office was the President, a new President shall be elected according to section 59.

Territorial
jurisdiction.

63. (1) Every case instituted under this Act shall be instituted before the Adalti Panchayat of the circle in which the offence was committed.

(2) Every suit instituted under this Act shall be instituted before the Adalti Panchayat of the circle in which the defendant or any of the defendants where they are more than one, ordinarily resides or carries on business at the time of the institution of the suit irrespective of the place where the cause of action arose.

Criminal
jurisdiction
of Pancha-
yats.

64. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1898, other than the Provisions V of 1898. of section 29-B thereof, an Adalti Panchayat shall have

¹ Omitted by s. 19 of Act XX of 1951.

² Ins. by sec. 19, *ibid*.

³ Sub. by the Adaptation of Laws Order, 1950.

jurisdiction within its circle to take cognizance of and to try the following offences as well as abetments of, and attempts to commit any such offence if committed within the local limits of its jurisdiction.

XLV of 1860. (a) *Under the Indian Penal Code:—*

OFFENCE	SECTION
Committing affray	160
Refusing oath or affirmation when duly required by a public servant to make it.	178
Refusing to answer a public servant authorised to question.	179
Fouling the water of a public spring or reservoir.	277
Negligent conduct with respect to any animal.	289
Punishment for public nuisance in cases not otherwise provided for.	290
Obscene act and songs	294
Voluntarily causing hurt	323
Wrongfully restraining any person ..	341
Assault by the use of criminal force otherwise than on grave sudden provocation.	352
Theft, when the value of the property stolen in the opinion of the Panchayat does not exceed fifty rupees.	379
Disonestly receiving stolen property knowing it to be stolen, when the value of the property in the opinion of the Panchayat does not exceed fifty rupees.	411
Mischief when the damage or loss caused in the opinion of the Panchayat does not exceed fifty rupees in value.	426
Insult intended to provoke a breach of the peace.	504
Uttering any word or making any gesture intending to insult the modesty of a woman, etc.	509
Appearing in a public place, etc., in a state of intoxication and causing annoyance to any person.	510

I of 1871. (b) *Under the Cattle Trespass Act, 1871:—*

Forcibly opposing the seizure of cattle or rescuing the same.	24
Causing damage to land or crops or public roads by pigs.	26
Failure of pound-keeper to perform duties ..	27

(c) Offences under this Act or under any rule or bye-law made thereunder or under other enactments (other than the Indian Penal Code) which are punishable with fine, only up to a limit of fifty rupees.

(d) Offences under section 34 of the Police Act, 1861.

V of 1898.

(2) Adalti Panchayat may try any of the following offences if the case is transferred to it by the District Magistrate, Sub-Divisional Magistrate or any other Magistrate empowered to transfer cases under section 192 of the Code of Criminal Procedure, 1898.

V of 1898.

Under the Indian Penal Code :—

XLV of 1860.

OFFENCE	SECTION
Danger or obstruction in public way ..	283
Dishonest misappropriation of movable property or converting it into one's own use when the value of the property in the opinion of the Magistrate is not over fifty rupees.	403*
Mischief by killing, poisoning, maiming or rendering useless any animal of the value of ten rupees and upwards.	428
Mischief by causing diminution of supply of water for agricultural purposes.	430
Criminal intimidation	506
Criminal trespass	447
House trespass	448

Provided as follows :—

(a) a Magistrate before whom a complaint of any offence cognizable by an Adalti Panchayat is brought shall, unless reason to the contrary be shown to his satisfaction, transfer the complaint to the said Panchayat ;

(b) the District Magistrate or Sub-Divisional Magistrate may transfer any case from one Adalti Panchayat to another or to any other court subordinate to him. On such transfer to an Adalti Panchayat, the provisions of sub-section (2) of section 62 shall not apply for the constitution of that Bench.

(3) Nothing in this section shall be deemed to authorise an Adalti Panchayat to award any substantive sentence of imprisonment.

65. An Adalti Panchayat shall not take cognizance of offence under section 379 or 411 of the Indian Penal Code XLV of 1860. in which the accused—

Certain persons not to be tried by Panchayat for theft.

(a) has been previously convicted of an offence punishable under Chapter XVII of the Indian Penal Code with imprisonment of either description for a term of three years or upwards; or

(b) has been previously convicted for theft by any Adalti Panchayat; or

- III of 1911. (c) is a registered member of a criminal tribe under section 4 of the Criminal Tribes Act, 1911; or
- V of 1898. (d) has been bound over to be of good behaviour in proceedings instituted under section 109 or section 110 of the Code of Criminal Procedure 1898.

66. (1) An Adalti Panchayat may sentence any offender Punishments. convicted by it to a fine not exceeding fifty rupees or double the value of the damage or loss caused, whichever is greater, or in default of payment of the fine within a period of thirty days from the date of conviction to imprisonment for a period not exceeding fourteen days provided that the said Panchayat may, in lieu of sentencing an offender convicted by it to a fine, release him after due admonition.

(2) If an Adalti Panchayat is satisfied after enquiry that a complaint made before it or transferred to it for trial is vexatious or frivolous, it may order the complainant to pay to the accused such compensation not exceeding twenty-five rupees, as it thinks fit, or in default of payment of the compensation within a period of thirty days of the order, may sentence the complainant to simple imprisonment for a period not exceeding seven days.

(3) If a fine is inflicted under sub-section (1), the said Adalti Panchayat may order the whole or any portion of the fine recovered to be applied—

- (a) in defraying expenses properly incurred in the case by the complainant;
- (b) in awarding compensation for any material damage or loss caused by the offence committed:

Provided that notwithstanding anything contained in XLV of 1860. the Indian Penal Code or in the Code of Criminal Procedure, V of 1898. 1898—

- (a) the fine imposed or compensation awarded by an Adalti Panchayat shall not be realised from any person who has served his term of imprisonment in default;
- (b) the person serving his term of imprisonment shall be forthwith released if the fine or compensation is paid before the expiry of the term of imprisonment.

¹[(4) Adalti Panchayat shall keep the properties produced before it in connection with a case, in safe custody and they shall be disposed of after the conclusion of the said case. A specific order shall be recorded in the register of cases in regard to their disposal.]

Enhanced powers of selected Adalti Panchayats.

67. Any Adalti Panchayat which is specially empowered by the ¹[State] Government in this behalf shall exercise the following enhanced powers :—

(a) to take cognizance of and to try cases under sections 379, 411 and 526 of the Indian Penal Code when the value of the property stolen or of the amount of the damage or loss caused does not exceed one hundred rupees and under such other sections of the Indian Penal Code as the ¹[State] Government may direct;

(b) to sentence any offender convicted before it to a fine not exceeding one hundred rupees or double the damage or loss caused, whichever is greater, or in default, to imprisonment not exceeding one month.

No appeal in criminal cases but power of revision.

68. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1898, no appeal shall lie against the order of an Adalti Panchayat sentencing a person to a fine but the Sub-Divisional Magistrate having jurisdiction in the area comprised in the circle may either on the application of the party aggrieved by such an order or on his own motion cancel or modify such an order or direct the re-trial of the accused in a court of competent jurisdiction or any Adalti Panchayat.

V of 1898.

(2) The order of the Sub-Divisional Magistrate cancelling or modifying an order of an Adalti Panchayat under sub-section (1) shall not be called in question in any court of law.

Exclusive civil jurisdiction of an Adalti Panchayat.

69. (1) Notwithstanding anything contained in the Bengal, Agra and Assam Civil Courts Act, 1887, the Provincial Small Cause Courts Act, 1887, and the Code of Civil Procedure, 1908, and any other law for the time being in force and subject to the provisions of sections 63 and 71, an Adalti Panchayat shall have jurisdiction to hear and determine the following clauses of suits, namely :—

XII of 1887.
XI of 1887.
V of 1908.

(a) suits for money due on contracts,

(b) suits for the recovery of movable property or the value of such property, and

(c) suits for compensation for wrongfully taking or injuring movable property,

when the value of the suit does not exceed twenty-five rupees:

Provided that an Adalti Panchayat which is specially empowered in this behalf by the ¹[State] Government may hear and determine such suits when the value of the suit exceeds twenty-five rupees, but does not exceed one hundred rupees.

(2) No court other than an Adalti Panchayat shall take cognizance of any suit of the class or value specified in sub-section (1), unless and until the Munsif has passed an order under section 87 or unless and until the said Panchayat has passed an order under clause (c) of sub-section (2) of section 75.

¹ Sub. by the Adaptation of Laws Order, 1950.

70. Notwithstanding anything contained in the Bengal, ^{Additional} XII of 1887. Agra and Assam Civil Courts Act, 1887, the Provincial ^{jurisdiction of} XI of 1887. Small Cause Courts Act, 1887, the Code of Civil Procedure, ^{Panchayats.} V of 1908. 1908, and any other law for the time being in force and subject to the provisions of sections 63 and 71, an Adalti Panchayat shall have further jurisdiction to try—

- (i) the classes of suits specified in section 69 when the value of the suit exceeds the limit fixed under that section, but does not exceed two hundred rupees;
- (ii) suit for the recovery of the rent of immovable property when the value of the suit does not exceed twenty-five rupees; and
- (iii) if the ¹[State] Government, by notification, so direct, suits for recovery of money or movable property other than those specified in section 69 and of higher value than that fixed under sub-section (1) of that section :

Provided as follows :—

- (a) in suits instituted before the Adalti Panchayat if the defendant objects to the trial of the suit by the Adalti Panchayat, it shall transfer the same to another Adalti Panchayat with the consent of the parties or direct the petitioner to the proper court ;
- (b) in suits instituted before the Civil Court, the Court may, unless reason be shown to the contrary, transfer the suit to an Adalti Panchayat which has jurisdiction to try such suits for disposal.

71. No suit shall lie in any Adalti Panchayat—

- (a) on a balance of partnership account,
- (b) by or against Government or public officers in their official capacity,
- (c) by or against minors or persons of unsound mind,
- (d) for the assessment, enhancement, reduction, abatement or apportionment of rent or immovable property, or
- (e) by a mortgage of immovable property for the enforcement of the mortgage by foreclosure or sale of the property or otherwise, or by a mortgagor of immovable property for the redemption of the mortgage.

Certain suits not to be tried by Adalti Panchayat.

72. No suit shall be entertained by an Adalti Panchayat ^{Limitation} after the expiration of three years from the date when the ^{of suits.} right to sue first accrued :

Provided that the period of limitation of suits specified in Schedule III when instituted before an Adalti Panchayat shall be the period prescribed in the same Schedule in respect of such suits:

¹ Sub. by the Adaptation of Laws Order, 1950.

Provided further that for a period of one year after the first establishment of an Adalti Panchayat, if a suit in regard to which an Adalti Panchayat has exclusive jurisdiction under section 69 is barred by the provisions of this section but is not barred by the Indian Limitation Act, 1908, the suit may be instituted before the ordinary Civil Court.

Res-judicata
and pending
suits.

73. No Adalti Panchayat shall try any suit in which the matter directly and substantially in dispute has been heard and decided by a court of competent jurisdiction in a former suit between the same parties, or between parties under whom they or any of them claim, or is pending for decision in the same court or in any other court in a previously instituted suit between the same parties or between parties under whom they or any of them claim.

How case or
suit may be
instituted.

74. A case or suit before an Adalti Panchayat may be instituted by petition made orally or in writing. If the petition is made orally, the said Panchayat shall record such particulars as may be prescribed, and in the case of suits, the stated value of the claim.

Power of
Adalti
Panchayat
to dismiss
or refuse to
entertain
petition.

75. (1) If upon the face of the petition or on examining the petitioner, an Adalti Panchayat is of opinion that the petition is frivolous, or vexatious, or the suit is barred by limitation, it shall dismiss the case or suit by an order in writing :

Provided that the Sub-divisional Magistrate or the Munsif, as the case may be, may on the application of the aggrieved party or on his own motion, direct that the case or suit instituted on such petition, be tried by a court of competent jurisdiction or by any Adalti Panchayat.

(2) If at any time it appears to the said Panchayat --

- (a) that it has no jurisdiction to try the case or suit,
- (b) that the offence is one for which the sentence which it is competent to pass would be inadequate,
- (c) that the case or suit is of such a nature or of such difficulty that it ought to be tried by a regular court,

it shall direct the petitioner to the proper court.

(3) The ¹[State] Government may, by notification, exclude any suit or case or any class of suits or cases from the jurisdiction of any Adalti Panchayat.

Dismissal of
case or suit
for default.

76. If in any case or suit before an Adalti Panchayat the petitioner fails to appear on the date fixed or if in the opinion of the said Panchayat he shows negligence in prosecuting his case or suit, the Adalti Panchayat may dismiss the case or suit for default and such order of dismissal in a case shall operate as a discharge :

¹ Sub. by the Adaptation of Laws Order 1950.

Provided that an Adalti Panchayat may restore a case or suit dismissed for default if within fifteen days from the date of such dismissal the complainant or the plaintiff satisfies the said Panchayat that he was prevented by sufficient cause from appearing.

77. (1) If the petition be not dismissed, the Adalti Panchayat shall by summons require the accused or the defendant to appear and answer the petitions either orally or in writing. Proceedings preliminary to trial.

(2) Such summons shall ordinarily be served by any of the chaukidars of the Grama Panchayat, but the Adalti Panchayat may, in its discretion, have it served by any other person.

(3) If the accused or the defendant resides at the time of the issue of the summons outside the circle, the Adalti Panchayat may, if it thinks fit, forward the summons to the nearest Magistrate who shall cause it to be served as if it were a summons from his own court.

(4) If the accused fails to appear or cannot be found, the Adalti Panchayat shall report the fact to the nearest Magistrate who may issue a warrant with or without bail for the arrest of the accused and may forward him when appearing before him for trial to the said Panchayat or release him on bail to appear before it.

X of 1940.

78. An Adalti Panchayat may, if desired by both parties, agree to act as an arbitrator and thereupon the provisions of the Arbitration Act, 1940, shall, so far as may be, apply to arbitrations made by the Adalti Panchayat. Arbitration by Adalti Panchayat.

79. If the defendant fails to appear and the Adalti Panchayat is satisfied that he has received notice of the case fixed for hearing, it may decide the suit *ex parte* : *Ex parte* decision.

Provided that any defendant against whom a suit has been decided *ex parte* may, within thirty days from the date of executing any process for enforcement of the decision, apply orally or in writing, to the Adalti Panchayat to set aside the order and the said Adalti Panchayat, if satisfied that the defendant did not receive due notice of the date of hearing or was prevented from appearing by any sufficient cause, shall set aside the decision and shall appoint a day for proceeding with the suit.

80. No decision or order of an Adalti Panchayat shall be set aside under section 76 or section 79 unless notice in writing has been served by the said Panchayat on the opposite party. No order to be set aside without notice to opposite party.

81. (1) Subject to the provisions of clauses (b) and (c) of section 71, an Adalti Panchayat shall add as parties to a suit any persons whose presence as party it considers necessary for a proper decision thereof and shall enter the names of such parties in the register of suits and the suit shall be tried as between the parties whose names are entered in the said register : Power of Adalti Panchayat to determine necessary parties.

Provided that when any party is added, notice shall be given to him and he shall be given an opportunity of appearing before the trial of the suit is proceeded with.

(2) In all cases where a new party appears under the proviso to sub-section (1), during the trial of a suit, he may require that the trial shall begin *de novo*.

(3) If the petitioner or defendant in any suit dies before a decree has been passed and the right to sue still accrues, the suit shall, subject to the provision of clause (c) of section 71, be proceeded with at the instance of or against the legal representatives of the deceased petitioner or the deceased defendant, as the case may be.

Prompt disposal of suits and cases.

82. An Adalti Panchayat shall dispose of all cases or suits before it as promptly as possible and shall if possible try the case and pass orders on the day on which the accused appears or is brought before it, but if that is not possible shall release him on his executing a bond for a sum not exceeding twenty-five rupees to appear before the Panchayat on any subsequent day or days to which the trial may be adjourned.

Attendance of witnesses.

83. (1) Subject to the provisions of sub-sections (2), (3) and (4) of this section, an Adalti Panchayat may by summons send for any person to appear and give evidence or to produce or cause the production of any document.

(2) No person who is exempt from personal appearance in court under sub-section (1) of section 133 of the Code of Civil Procedure, 1908, shall be required to appear in person before an Adalti Panchayat in a suit. V of 1908.

(3) An Adalti Panchayat shall refuse to summon a witness or to enforce a summons already issued against a witness where, in the opinion of the Panchayat, the attendance of the witness cannot be procured without an amount of delay, expense or inconvenience which, under the circumstances, would be unreasonable.

(4) An Adalti Panchayat shall not require any person living outside its local jurisdiction to give evidence or to produce a document, unless such a sum of money be paid to him as appears to the Adalti Panchayat to be sufficient to defray his reasonable expenses.

(5) If any person whom an Adalti Panchayat summons by written order to appear or give evidence, or to produce any document before it, wilfully fails to obey such summons the said Panchayat may take cognizance of such offence and may sentence any person convicted thereof to a fine not exceeding twenty-five rupees.

Decision of Panchayat.

84. When in any case or suit the parties or their agents have been heard and the evidence on both sides has been considered, an Adalti Panchayat shall by written order pass such sentence or decree as may seem just, equitable and according to good conscience. In so doing it shall be bound by no laws of evidence or procedure other than the procedure prescribed by or under this Act. Every decree or order shall contain such particulars as may be prescribed.

85. In the event of the members of an Adalti Panchayat disagreeing, the decision of the majority shall prevail. Opinion of majority to prevail.

86. Notwithstanding anything contained in this Act or in any other law for the time being in force, it shall be lawful for an Adalti Panchayat to decide any case or suit within its jurisdiction in accordance with any compromise agreed to by the parties. Compromise.

87. The decision of an Adalti Panchayat in every suit shall be final as between the parties to the suit : Decision of Panchayat in civil suits to be final.

Provided that the Munsif may, on his own motion or on the application of the party aggrieved by the decision of the Adalti Panchayat, cancel or modify such decision or direct the re-trial of the suit by the same or any other Adalti Panchayat.

88. An Adalti Panchayat when inflicting a fine or in payment by ordering the payment of a sum of money or the delivery of instalments. any movable property may direct that the money be paid or the movable property be delivered by instalments.

89. Notwithstanding anything contained in the Court Fees Act, 1870, the fees payable for the institution of suits and fees cases before the Adalti Panchayat shall be as prescribed. Payment of Fees Act, 1870.

90. All fees, fines and penalties imposed and all sums due under bonds and all sums decreed and compensation awarded of fees and under this Act by an Adalti Panchayat may be realised by the Adalti Panchayat by the distraint and sale of movable property subject to the conditions and in the manner prescribed. Realisation of fines, etc.

91. All fees, fines and penalties realised under this Act shall be credited to the Grama Sabha Fund constituted under section 40 and the fines shall be credited in such manner as is provided in section 47. Credit of fees and fines.

92. An Adalti Panchayat shall sit on such dates and at such place or places within the limits of its jurisdiction as may be fixed by it with the approval of the District Magistrate. Place of sitting of the Adalti Panchayat.

93. (1) The parties to cases triable by an Adalti Panchayat shall appear personally before the said Panchayat : Appearance of parties.

Provided that the said Panchayat may, if satisfied that adequate reasons exist, dispense with the personal attendance of an accused and permit him to appear by agent.

(2) The parties to suit triable by the said Panchayat may appear by agent.

Explanation.—“Agent” in sub-sections (1) and (2) means a full-time servant or a partner or a relative of the party whom the Adalti Panchayat may admit as a fit person to represent a party, and who is authorised to appear and plead for such party :

Provided that no advocate, legal practitioner or person declared to be a tout under section 36 of the Legal Practitioners Act, 1879, or person known to the Adalti Panchayat to be a tout, shall be permitted to appear as an agent. XVIII of 1879.

Legal practitioners not to appear. 94. Notwithstanding anything contained in the Legal Practitioners Act, 1879, advocates or legal practitioners shall not be permitted to appear before the said Panchayat. XVIII of 1879.

Appearance of women. 95. No woman shall, against her will, be compelled to appear in person before the said Panchayat as an accused or as a witness.

Control by District Judge and District Magistrate. 96. The District Judge and the District Magistrate or any other officer duly authorised by either of them in this behalf shall have power at all times to inspect the proceedings and records of an Adalti Panchayat.

CHAPTER VIII

EXTERNAL CONTROL

Control by the Registrar of Co-operative Societies. 97. (1) Subject to any rules made under this Act the ¹[District Magistrate] shall exercise general powers of inspection, supervision and control over the performance of the administrative duties of the Grama Panchayat.

2] The members of the Orissa Legislative Assembly, the Chairman and Vice-Chairman of a District Board and such other officers as may be nominated by the ²[State] Government shall be visitors *ex officio* of a Grama Sabha, Grama Panchayat and Adalti Panchayat:

³Provided that the District Magistrate may by notification delegate any of his powers and functions under this Act except the powers under clause (f) of section 38, to an officer subordinate to him.]

General powers of District Magistrate. 98. The ¹[District Magistrate] may—

- (a) cause to be inspected any immovable property owned, used or occupied by a Grama Panchayat or a Joint Committee or any work in progress under the directions of a Grama Panchayat or such Committee;
- (b) by an order in writing call for and inspect a book or document in the possession or under the control of a Grama Panchayat or a Joint Committee;
- (c) by an order in writing require a Grama Panchayat or a Joint Committee to furnish such statements, reports, copies of documents relating to the proceedings or duties of the Grama Panchayat or such Committee as he thinks fit to call for;

¹ Sub. by s. 20 of Act XX of 1951.

² Sub. by the Adaptation of Laws Order, 1950.

³ Ins. by s. 8 of Act II of 1950 and sub. by s. 20 of Act XX of 1951.

- (d) record in writing for the consideration of a Grama Panchayat or Joint Committee any observation which he thinks proper in regard to the proceedings or duties of the Grama Panchayat or such Committee;
- (e) by a general or special order direct any officer of the departments specified below to attend any meeting of the Grama Panchayat and to advise and assist such Panchayat on any matter affecting the work of the department to which such officer belongs :—
- (i) The Public Works Department.
 - (ii) The Forest Department.
 - (iii) The Education Department.
 - (iv) The Agricultural Department.
 - (v) The Medical Department.
 - (vi) The Health Department.
 - (vii) The Department of Industries.
 - (viii) The Veterinary Department.

Provided that nothing in this clause shall be deemed to authorise the ¹[District Magistrate] to issue directions to an officer of any department specified in this clause, except with the prior concurrence of the Chief Officer of that Department posted in that district ;

²[(f) * * * * *].

²[(f)] appoint authorities in accordance with the prescribed rules to exercise powers on behalf of Grama Sabha or Grama Panchayat; and

²[(g)] in case of neglect of duty or abuse of power, order dissolution and reconstitution or abolition of a Grama Panchayat.

²[(2) The District Magistrate shall have the power to order dissolution and reconstitution or abolition of an Adalti Panchayat in case of neglect of duty or abuse of power.]

99. (1) The District Magistrate or any other officer specially empowered in this behalf by the ³[State] Government on information received or on his own initiative, may by order in writing prohibit the execution or further execution of a resolution or order passed or made under this or any other enactment by a Grama Panchayat or a Joint Committee or any officer or servant of a Grama Panchayat or Joint Committee if in his opinion such resolution or order is of such a nature as to cause or tend to cause obstruction, annoyance or injury to the public or to any class or body of persons lawfully employed or danger to human life, health or safety, or a riot or affray. He may also prohibit in the doing or continuance by any person of any act in pursuance of or under cover of such resolution or order.

¹ Sub. by s. 21 of Act XX of 1951.

² Omitted and relettered by s. 21, *ibid.*

³ Sub. by the Adaptation of Laws Order, 1950.

Emergency powers of District Magistrate and other officers specially empowered.

(2) Where an order is made under sub-section (1), a copy thereof together with a statement of the reasons for making it shall forthwith be forwarded by the District Magistrate or the aforesaid officer to the ¹[State] Government or the prescribed authority who may after calling for an explanation from the Grama Panchayat and considering the explanation, if any, made by it, rescind, modify or confirm the order :

Provided that subject to any order that may be passed by the ¹[State] Government or the prescribed authority under this sub-section, an order passed by the District Magistrate under sub-section (1) shall cease to have effect after the expiry of two months from the date of that order.

(3) Where the execution or further execution of a resolution or order is prohibited by an order made under sub-section (1) and continuing in force, it shall be the duty of the Grama Panchayat or the Joint Committee or any officer or servant of the Grama Panchayat or of such Committee, if so required by the authority making the order under the said sub-section to take any action which it would have been entitled to take, if the resolution or order had never been made or passed and which is necessary for preventing any person from doing or continuing to do anything under cover of the resolution or order of which the further execution is prohibited.

CHAPTER IX

PENALTIES AND PROCEDURE

Penalty for infringement of the provisions of the Act. **100.** Whoever contravenes any provision of this Act shall if no other penalty is provided for that offence, be punishable with fine, which may extend to ten rupees, and when the contravention is a continuing one with a further fine which may extend to one rupee for every day after the first conviction during which an offender is proved to have persisted in the commission of the offence.

Penalty for infringement of rules and bye-laws. **101.** In making a rule, the ¹[State] Government and in making a bye-law, the Grama Panchayat, with the sanction of the prescribed authority, may direct that a breach of it shall be punishable ²[on conviction] with fine, which may extend to ten rupees and when the breach is a continuing one with a further fine which may extend to one rupee for every day after the date of the first conviction during which the offender is proved to have persisted in the commission of the offence.

Penalty for tampering with the Grama Panchayat's property. **102.** (1) Whoever removes, displaces or makes an alteration in or otherwise interferes with the pavement, gutter or other materials of a public street, or the fences, walls or posts thereof, or bracket, direction post, stand post, hydrant, or other such property of the Grama Sabha without the

¹ Sub. by the Adaptation of Laws Order, 1950.

² Ins. by s. 22 of Act XX of 1951.

written sanction of the Grama Panchayat or other lawful authority shall be punishable with fine which may extend to ten rupees.

(2) If through an act, neglect, or default, on account whereof a person has incurred a penalty imposed by sub-section (1) and has caused any damage to the property of a Grama Sabha, the person incurring such penalty shall be liable to make good such damage as well as to pay such penalty, and the damages may be recovered from the offender in the prescribed manner.

103. If a notice has been given to a person under the provisions of the Act or any rule or bye-law made thereunder requiring him to execute a work in respect of any property, movable or immovable, public or private, or to provide or to do or refrain from doing anything within the time specified in the notice, and such person fails to comply with the notice, then the Grama Panchayat may cause such work to be executed or such thing to be provided or done, and may recover all expenses incurred by it on such account with or without fine not exceeding ten rupees from the said person in the prescribed manner.

Disobedience to notice issued.

104. No notice shall be invalid for defect of form.

Notice not to be invalid for defect of form.

105. (1) Any person aggrieved by an order or direction made by a Grama Panchayat under this Act or under any rule or bye-law may, unless otherwise prescribed, within thirty days from the date of such direction or order, exclusive of the time requisite for obtaining a copy thereof, appeal to the prescribed authority who may vary, set aside or confirm the said order or direction.

Appeals.

(2) The appellate authority may, if he thinks fit, extend the period allowed by sub-section (1) for filing an appeal.

(3) The decision of the appellate authority shall be final and such authority shall have power to award costs at his discretion.

106. No order or direction referred to in the preceding section shall be questioned in any other manner or by any authority other than the authority provided therein.

Finality of order of appellate authority.

107. When an order or direction of the kind specified in section 105 is subject to appeal and the appeal has been instituted against it, all proceedings to enforce such order or direction and all prosecution for a breach thereof may by order of the appellate authority be suspended pending the decision of the appeal.

Suspension of prosecution in certain cases.

108. (1) Subject to the prescribed rules, a Grama Panchayat may, either before or after the institution of proceedings, compound an offence against this Act or any rule or bye-law made thereunder.

Power to compound offence.

(2) When an offence has been compounded no further proceedings shall be taken against the offender in respect of the offence so compounded.

(3) All sums paid by way of compensation under this section shall be credited to the Grama Fund.

Entry and inspection.

109. The Sarpanch of the Grama Panchayat and any other member, officer or servant of the Panchayat specially authorized in this behalf by the Grama Panchayat may enter into or upon a building or land, with or without assistants or workmen, in order to make an inspection or survey or to execute a work which a Grama Panchayat is authorised by this Act or by rules or bye-laws made thereunder, to make or execute, or which it is necessary for a Grama Panchayat for any of the purposes or in pursuance of any of the provisions of this Act or of the rules or bye-laws to make or execute :

Provided that—

- (a) except when otherwise expressly provided in this Act or the rules or bye-laws no such entry shall be made between the hours of sunset and sunrise,
- (b) except when otherwise expressly provided in this Act or in the rules or bye-laws no building which is used as a human dwelling shall be so entered except with the consent of the occupier thereof without giving the said occupier not less than four hours previous written notice of the intention to make such entry,
- (c) sufficient notice shall in every instance be given even when any premises may otherwise be entered without notice to enable the inmates of an apartment set apart for females to remove to some part of the premises where their privacy shall not be disturbed, and
- (d) due regard shall always be paid to the social and religious usages of the occupants of the premises entered.

Suits against Grama Panchayats or their officers.

110. (1) No suit or other legal proceeding shall be instituted against a Grama Sabha or a Grama Panchayat or against a member, officer or servant of the Grama Panchayat or against any person under its or his direction for anything done or purporting to have been done under this Act, until the expiration of one month next after notice in writing has been, in the case of a Grama Panchayat, delivered in or left at the office of the Panchayat and in the case of a member, officer or servant or any person acting under his direction or the direction of the Grama Panchayat, delivered to him or left at his office or place of residence, explicitly stating the cause of action, the nature of the reliefs sought, the amount of compensation, if any, claimed, and the name and place of residence of the intending plaintiff. The plaint shall contain a statement that such notice has been so delivered or left.

(2) If the Grama Panchayat, member, officer or servant or the person has tendered sufficient amends to the plaintiff the plaintiff shall not recover any sum in excess of the amount so rendered and shall also pay all costs incurred by the defendant after such tender.

(3) No action such as is described in sub-section (1) shall be commenced after the expiry of a period of six months from the date of the accrual of the cause of action.

XVIII of.
1850.

111. (1) The provisions of the Judicial Officers' Protection Act, 1850, shall apply to the members of the Adalti Panchayats.

Protection to Grama and Adalti Panchayats.

(2) No suit or prosecution shall be entertained in any court against a Grama Panchayat or any member or officer thereof or any person acting under its or his direction in respect of anything in good faith done or intended to be done under this Act or any rule or bye-laws made thereunder.

112. Every police officer shall give immediate information to the Grama Panchayat of an offence coming to his knowledge which has been committed against this Act or any rule or bye-law made thereunder and shall assist all members and servants of the Grama and Adalti Panchayats in the exercise of their lawful authority.

Powers and duties of Police in respect of offences and assistance to Panchayats.

113. If any dispute arises between two or more Grama Panchayats or between a Grama Panchayat and a Notified Area or a Municipality or a District Board, it shall be referred to the prescribed authority whose decision shall be final.

Dispute between Grama Panchayat and any other local authority.

CHAPTER X

RULES AND BYE-LAWS

114. (1) The [State] Government may, subject to the conditions of previous publication, by notification, make rules to carry out the purposes of this Act.

Power of [State] Government to make rules.

(2) In particular and without prejudice to the generality of the foregoing powers such rules may provide for—

- (i) any matter for which power to make provision is conferred expressly or by implication on the [State] Government by this Act;
- (ii) the establishment of Grama Sabha, Grama Panchayat, and Adalti Panchayats, qualifications of a Sarpanch and Naib Sarpanch and the procedure for conducting elections of the Grama Panchayat, Sarpanch and Naib Sarpanch, and the Adalti Panchayat;
- (iii) the date, time and place of the meeting of Grama Sabha, Grama Panchayat and Adalti Panchayats, the manner of convening meetings and giving notice thereof;

- (iv) the conduct of proceedings including the asking of questions by members at meetings and the adjournment of meetings and also the method of keeping the minute books of meetings ;
- (v) the establishment of Committees and the determination of all matters relating to the constitution and procedure of such Committees ;
- (vi) the suspension and removal of Secretary and staff appointed under section 33 ;
- (vii) the records and registers that shall be maintained by Grama and Adalti Panchayats and the form in which they are to be maintained ;
- (viii) the action to be taken on the occurrence of a vacancy in the Executive Committee, Joint Committee, any other Committee and Adalti Panchayats ;
- (ix) the authority by which disputes in relation to appointments to Executive Committee, Joint Committee, any other Committee or Adalti Panchayat may be decided and the procedure to be followed therein ;
- (x) the amount and nature of security to be furnished by a servant of the Grama Panchayat from whom it deemed expedient to require security ;
- (xi) ¹[Appointment qualifications, conditions of service], dismissal, discharge, removal and punishment of the servants of Grama Panchayat and their right of appeal ;
- (xii) management and regulation of provident fund for the servants of Grama Panchayats if the system of provident fund is adopted by any Grama Panchayat ;
- (xiii) the establishment, maintenance and management of primary or basic schools and the construction and repair of buildings thereof ;
- (xiv) the establishment, administration and control of libraries, reading rooms, dispensaries, including dispensaries entrusted to a Joint Committee, the construction and repairs of buildings connected therewith and the supply of medicine and medical assistance to the poor inhabitants of the local area of a Grama Sabha ;
- (xv) making of grants by a District Board or the ²[State] Government in respect of schools, hospitals and dispensaries ;
- (xvi) action in regard to the sanitation, conservancy, drainage, buildings, public street and water supply and the prohibition of public nuisance ;

¹ Ins. by s. 9 of Act II of 1950.

² Sub. by the Adaptation of Laws Order, 1950.

- (xvii) the discovery, removal and destruction of water-hyacinth on any land, premises or water, the construction of fences and barriers for checking its movements and the cost incurred in carrying out such work;
- (xviii) the framing of budgets;
- (xix) the returns to be submitted by Grama and Adalti Panchayats, the form in which they are to be submitted, the authorities to which and the time when they shall be submitted;
- (xx) the levy of taxes and licence fees, the authority by which and the manner in which the taxes may be assessed and the authority to which an appeal from an assessment order may be made;
- (xvi) the method and time of payment of taxes and other dues, the procedure of recovery and the authority whose assistance may be taken by Grama Panchayats in the recovery of taxes and dues;
- (xxii) the method of account-keeping by Grama Panchayats;
- (xxiii) the regulation of compulsory and optional labour required or permitted by this Act;
- (xxiv) the formalities to be observed by Grama Panchayats when transferring any property and the manner in which a deed of contract may be executed on behalf of a Grama Panchayat;
- (xxv) powers of auditors, inspecting and superintending authorities to hold enquiries, to summon and examine witnesses, to compel the production of documents and all other matters connected with audit, inspection and superintendence;
- (xxvi) the issue, service or execution of summons, notices and other processes of Adalti Panchayats and issue and service of notices by Grama Panchayats;
- (xxvii) the transfer by an Adalti Panchayat of summons and other processes to another Adalti Panchayat or any court for service or execution;
- (xxviii) the fees to be levied by Adalti Panchayat for institution of suits and cases, for issue of processes, for obtaining copies of documents and for other matters;
- (xxix) the court-fees and other fees payable where an Adalti Panchayat, with the consent of parties, entertains a suit which is otherwise beyond its jurisdiction;
- (xxx) the procedure for execution of decrees, orders and sentences passed by Adalti Panchayats;

- (xxvi) the allotment by Grama Panchayats of funds for the performance by Adalti Panchayats of their duties under this Act and the extent to which fees paid to Adalti Panchayats may be appropriated by Grama Panchayats;
- (xxvii) the powers that may be exercised by District Board or any prescribed authority in the discharge of their obligations under this Act and the manner in which such powers may be exercised;
- (xxviii) the procedure to be observed in making of bye-laws by District Boards for Grama Panchayats or by Grama Panchayats;
- (xxix) the printing of the prescribed forms and registers;
- (xxx) the submission for approval of plans, designs, specifications and estimates;
- (xxxi) the duties, powers and functions of Grama Sevakas;
- (xxxii) the submission of annual reports by Grama Panchayats and their review;
- (xxxiii) persons other than members of Grama Panchayats who may be present in an advisory capacity in the meetings of Grama Panchayats;
- (xxxiv) channel of correspondence between Grama Panchayat and other authorities;
- (v) disposal of assets and liabilities of a Grama Panchayat on its abolition;
- (vi) the action to be taken on the inclusion of the whole or part of the local area of any Grama Panchayat in any Municipality or Notified Area and the manner in which the assets and liabilities of the Grama Panchayat may be disposed of in such circumstances;
- (vii) the conditions subject to which sums due to a Grama Panchayat may be written off as irrecoverable and the conditions subject to which the whole or any part of a fee chargeable for distress may be remitted;
- (xliii) the assignment of cess under section 40;
- (xliv) all other matters expressly required or allowed by this Act to be prescribed; and
- (xlv) generally for the guidance of Grama Panchayats, Adalti Panchayats, Joint Committees, other Committees, servants of the ¹[Government] and other authorities in any matter connected with the carrying out of the provisions of this Act.

(3) All rules made under this section shall be laid as soon as possible after they are made before the Orissa Legislative Assembly for a total period of fourteen days which may be comprised in one session or in two or more sessions, and shall be subject to such modifications as the Assembly may make during the said period.

¹[(4) All rules so made under this section shall, on final publication, have effect as if enacted in this Act.]

115. A District Board may, and when required by the ^{Power of} ²[State] Government shall, make bye-laws for a Panchayat ^{District} within its jurisdiction consistent with the Act and the rules ^{Board to} made thereunder for the purpose of promoting or maintaining ^{frame bye-} the health, safety and convenience of persons residing within ^{laws.} the local area of a Grama Panchayat and for furtherance of administration of Grama Panchayats under this Act.

116. (1) Subject to the provisions of this Act and the ^{Power of} rules made thereunder and the bye-laws, if any, made by the ^{Grama} District Board, a Grama Panchayat may frame bye-laws— ^{Panchayats} ^{to frame} ^{bye-laws.}

- (a) to prohibit the removal or use of water for drinking purposes from any source which is likely to cause danger to health and to prohibit the doing of anything likely to contaminate any source of drinking water;
- (b) to prohibit or regulate the discharge of water from any drain or premises on a public street or into a river, pond, tank, well or any other place;
- (c) to prevent damage to public streets and Grama Panchayat's property;
- (d) to regulate sanitation, conservancy and drainage in the area of a Grama Panchayat;
- (e) to prohibit or regulate the use of public streets or other public places by shop-keepers or other individuals or collection of market tolls on public streets; and
- (f) regulate the manner in which tanks, ponds and cess-pools shall be maintained and used.

(2) The draft of bye-laws framed by Grama Panchayats shall be published in the prescribed manner. Any objections received thereto shall be considered at a meeting of the Grama Panchayat and the bye-laws shall then be submitted together with the objections, if any, received and the decisions taken thereon to the Chairman, District Board. The bye-laws as sanctioned by the Chairman, District Board, shall come into force after they have been published in the prescribed manner.

117. The ^{Power of} ²[State] Government may, on the application of a Grama Panchayat, by notification, extend to the areas included within its jurisdiction any of the provisions of Bihar and Orissa Municipal Act, 1922, or Madras District Municipalities Act, 1920, or any rules framed under the said Acts; and may declare such extension to be subject to such restrictions and modifications as they think fit. ^{Government} ^{to extend} ^{Bihar and} ^{Orissa Act} ^{VII of 1922} ^{and Madras} ^{Act V of} ^{1920.}

Bihar and
Orissa Act
VII of 1922
and Madras
Act V of
1920.

¹ Ins. by S. 23 of Act XX of 1951.

² Sub. by the Adaptation of Laws Order, 1950.

SCHEDULE I

PART A

Enactments repealed or amended when the remaining provisions other than those of Chapters VI and VII are brought into force in any specified area

(See section 2.)

Year	No.	Short title	Extent of repeal or amendment	Where the enactment is in force
1	2	3	4	5
1871	I	Cattle Trespass Act, 1871.	<p>1. In section ³ at the end of the definition of "local authority" the following words shall be added, namely :—</p> <p>"and entrusted by the ¹[State] Government under section 31 with any function under this Act in that area."</p> <p>2. For section 6, the following section shall be substituted, namely :—</p> <p>"6. The Magistrate of the district or any officer not being below the rank of a Sub-divisional Magistrate specially authorised by the Magistrate of the district in this behalf shall appoint for each pound a pound-keeper. Every pound-keeper appointed by the Magistrate of the district or by the officer so authorised may be suspended and removed by such Magistrate or officer. Any pound-keeper may hold simultaneously any office under the ¹[Government]. Every pound-keeper shall be deemed to be a public servant within the meaning of the Indian Penal Code."</p> <p>3. In section 12—</p> <p>(i) for the words "the pound-keepers shall levy a fine" the words "the local authority exercising jurisdiction within the area in which the pound is situated shall impose a fine" shall be substituted;</p> <p>(ii) the second paragraph beginning with the words "All fines so levied" and ending with the words "may direct" shall be omitted.</p>	In the whole of the ¹ [State].

¹ Sub. by the Adaptation of Laws Order, 1950.

Year	No.	Short title	Extent of repeal or amendment	Where the enactment is in force
1	2	3	4	5
1871— <i>contd.</i>	— <i>contd.</i>	Cattle Trespass Act, 1871— <i>contd.</i>	<p>4. In section 17, for the words “be deemed to hold them as part of the revenues of the ¹[State]” the following words shall be substituted, namely :—</p> <p>“dispose of them as hereinafter provided.”</p> <p>5. After section 17 of the said Act the following section shall be inserted, namely :—</p> <p>“18. All sums received on account of fines and the unclaimed proceeds of the sale of cattle shall be sent to the local authority concerned and out of those sums there shall be paid—</p> <p>(a) the remuneration of the pound-keepers.</p> <p>(b) the expenses incurred for the construction and maintenance of pounds, or for any other purposes connected with the execution of this Act and the surplus, if any, shall be credited to the fund of the said local authority”.</p>	
1885	1	The Bengal Ferries Act, 1885. “Power of ¹ [State] Government to vest management of public ferries in a local authority.”	<p>For section 35, the following section shall be substituted, namely :—</p> <p>“35. It shall be lawful for the ¹[State] Government to order that any public ferry shall be managed by a local authority having jurisdiction over the area or any part of the area in which such ferry is situated, and such local authority shall have all the powers vested in the Magistrate of the district under this Act except the power specified in sections 7, 17 and 32 and the ¹[State] Government may further order that all or any part of the proceeds of such ferry and all or any part of the fines levied and compensation received under this Act in respect thereof, be paid to such local authority; and thereupon such ferry shall be managed and such proceeds, fines and compensations shall be paid accordingly :</p>	Districts of Cuttack, Puri and Balasore.

¹ Sub. by the Adaptation of Laws Order 1950.

Year	No.	Short title	Extent of repeal or amendment	Where the enactment is in force
1	2	3	4	5
1885— <i>contd.</i>	I— <i>contd.</i>	The Bengal Ferries Act, 1885— <i>contd.</i>	<p>Provided that when by an order of the ¹[State] Government all or any part of such proceeds, fines and compensation are paid to any local authority, they shall be appropriated in the first instance towards payment of all charges incurred in carrying out the purposes of this Act and the surplus, if any, shall be credited to the fund of such local authority :</p> <p>Provided further that the ¹[State] Government may, from time to time, vary or amend any order made under this section."</p>	
1885	III	The Bihar and Orissa Local Self-Government Act, 1885.	<p>1. In section 5 for the definition of "local authority" the following definition shall be substituted, namely :—</p> <p>"Local authority" means any District Board, Local Board or Joint Committee constituted under this Act, or any Grama Panchayat or Committee constituted under the Orissa Grama Panchayats Act, 1948."</p> <p>2. Section 36 and the whole of Chapter II of Part I (sections 37 to 44) shall be repealed.</p> <p>3. At the end of clause (2) of section 52, the following shall be added, namely :—</p> <p>"except when levied by a Grama Panchayat constituted under the Orissa Grama Panchayats Act, 1948."</p> <p>4. For sub-clause (d) of clause seventhly of section 53, the following sub-clause shall be substituted, namely:—</p> <p>"(d) any sums assigned by the District Board to a Local Board or to a Grama Panchayat constituted under the Orissa Grama Panchayats Act, 1948."</p> <p>5. The whole of Chapter III of Part II (sections 56 to 58) shall be repealed;</p>	Districts of Cuttack, Puri, and Balasore.

¹Sub. by the Adaptation of Laws Order, 1950.

Year	No.	Short title	Extent of repeal or amendment	Where the enactment is in force
1	2	3	4	5
1885— <i>contd.</i>	III— <i>contd.</i>	The Bihar and Orissa Local Self-Government Act, 1885— <i>contd.</i>	<p>6. In section 62, after the words “under this Act” the words and figures “and to the provisions of the Orissa Grama Panchayats Act, 1948” shall be inserted.</p> <p>7. In section 73, the following words and figures shall be omitted, namely :—</p> <p>“but subject to the provisions of Chapter III of Part III thereof.”</p> <p>8. In section 89, the following words shall be inserted at the beginning of the section, namely :—</p> <p>“subject to the provisions of the Orissa Grama Panchayats Act, 1948.”</p> <p>9. The whole of Chapter III of Part III (sections 104 to 119) shall be repealed.</p> <p>10. In section 130, the following words shall be omitted, namely :—</p> <p>(i) in the first paragraph, the following :—</p> <p>“In respect of a Union Committee, by the District Board or Local Board to which the Committee may have been declared, by an order under section 119, to be, for the purposes of the section, subordinate,” and</p> <p>(ii) the whole of the second and third paragraphs, namely :—</p> <p>“When a Local Board makes any order under this section, it shall forthwith submit to the District Board a copy of the order, with a statement of its reasons for making it and with any explanation which the Union Committee concerned may wish to offer. The District Board may thereupon confirm, modify or rescind the order,” and</p> <p>(iii) in the penultimate paragraph the words “or Union Committee”.</p> <p>11. In section 131, the words “or Union” occurring in two places shall be omitted.</p>	

Year	No.	Short title	Extent of repeal or amendment	Where the enactment is in force
1	2	3	4	5
1885— <i>contd.</i>	III.— <i>contd.</i>	The Bihar and Orissa Local Self-Government Act, 1885— <i>contd.</i>	<p>12. In section 132, the following shall be omitted, namely :—</p> <p>(i) in the first paragraph, the words “or Union Committee” in the four places where they occur;</p> <p>(ii) in the second paragraph, the words “or committee”; and</p> <p>(iii) the whole of the last paragraph.</p> <p>13. Section 133 shall be repealed.</p> <p>14. In section 138—</p> <p>(1) the following shall be omitted, namely :—</p> <p>(i) in the first paragraph, the words “or Union Committee”;</p> <p>(ii) in clause (a) the following words, namely :—</p> <p>“and Committees”;</p> <p>(iii) clauses (g) and (g1); and</p> <p>(iv) the whole of the last paragraph.</p> <p>(2) In clause (1) for the words “District Boards, Local Boards and Union Committees” the words “District Boards and Local Boards” shall be substituted.</p> <p>15. In section 142, for the words “Local Board or Union Committee” the words “or Local Board” and for the words “Union Committee, Local Board or District Board” the words “District Board” or “Local Board” shall be substituted.</p> <p>16. In section 144, for the words “local authority” wherever they occur the words “District Board or Local Board” shall be substituted.</p> <p>17. In section 145, for the words “every local authority” the words</p>	

Year	No.	Short title	Extent of repeal or amendment	Where the enactment is in force
1	2	3	4	5
1885— concl'd.	III— concl'd.	The Bihar and Orissa Local Self-Government Act, 1885— concl'd.	words "the District or Union funds, respectively," the words "the District Fund" shall be substituted. 18. In section 146, in the first paragraph, the words "or Union Committee" and in the two places where they occur, the words "or Committee" shall be repealed, and the word "or" shall be inserted after the words "District Board".	
1919	I	The Bihar and Orissa Primary Education Act, 1919.	(1) To sub-section (3) of section 2 the following shall be added at the end :— "and in an area constituted a Grama Sabha under the Orissa Grama Panchayats Act, 1948, the Grama Panchayat." (2) To section 13 the following shall be added at the end :— "(iii) In a Grama Panchayat constituted under the Orissa Grama Panchayats Act, 1948, be such percentage not exceeding fifty of the assessment imposed under section 43 of that Act as the local authority may fix and shall be recoverable in the same manner as if it were such assessment."	Districts of Cuttack, Puri and Balasore.
1922	III	The Bihar and Orissa Village Administration Act, 1922.	All the provisions of this Act except those of Parts III and V shall be repealed.	Ditto.
¹ [1948]	VII	The Bihar and Orissa Village Administration (Orissa Amendment) Act, 1948.	The whole	Ditto.]
1878	XVII	The Northern India Ferries Act, 1878.	1. Existing section 17 shall be numbered as sub-section (1) of section 17 and to the said sub-section the following proviso shall be added, namely :— "Provided that where the ferry is entrusted to the management of a local authority under section 7 or section 7A, the receipts from tolls, rents, fines, and compensation received under this Act shall not be revenues of the ² [State] and shall be disposed of as provided in sub-section (2)."	The district of Sambalpur.

¹ Ins. by s. 4 of Act XXIX of 1951.² Sub. by the Adaptation of Laws Order, 1950.

[illegible]

Year	No.	Short title	Extent of repeal or amendment	Where the enactment is in force
1	2	3	4	5
1939— <i>contd.</i>	VI— <i>contd.</i>	The Sambalpur Local Self-Government Act, 1939— <i>contd.</i>	<p>(ii) in sub-clause (f) for the words "Union Boards constituted under Part II of this Act" the words "a Panchayat constituted under the Orissa Grama Panchayats Act, 1948" shall be substituted.</p> <p>(iii) under clause "ninthly" in proviso (3) for the words "Union Boards constituted under Part II of this Act" the words "a Panchayat constituted under the Orissa Grama Panchayats Act, 1948" shall be substituted.</p> <p>4. Sections 114-118.—In these sections for the words "any local authority", "every local authority" and "a local authority" wherever they occur, the expression "the District Board" shall be substituted.</p> <p>5. Section 121.—For the words "the local authority concerned" the words "the District Board" shall be substituted.</p> <p>6. Section 125—</p> <p>(i) In clause (k) for the words "Union Board" the words "a Panchayat" shall be substituted.</p> <p>(ii) In clause (23) the words "determining the relations between the District Board and Union Boards and" shall be omitted.</p> <p>7. Section 137.—For the words "Union Board constituted under Part II of this Act" the words "Panchayat constituted under the Orissa Grama Panchayats Act, 1948" shall be substituted.</p> <p>8. Section 153-194.—Part II of the Act containing these sections shall be repealed.</p>	
1890	II	The Canals and Public Ferries Act, 1890.	<p>Section 10.—For section 10 the following section shall be substituted, namely :—</p> <p>"10. (1) The ¹[State] Government may—</p> <p>(a) provide for management of any public ferry, or</p>	Ex-Madras areas.

¹ Sub. by the Adaptation of Laws Order, 1950.

Year	No.	Short title	Extent of repeal or amendment	Where the enactment is in force
1	2	3	4	5
1890— <i>contd.</i>	II— <i>contd.</i>	The Canals and Public Ferries Act, 1890— <i>contd.</i>	<p>(b) assign the management of any public ferry to a local authority.</p> <p>(2) In the cases referred to in clause (a) of sub-section (1), the ¹[State] Government may levy tolls at such rates as they may fix upon passengers, animals, vehicles and goods conveyed across the ferry.</p> <p>(3) When under clause (b) of sub-section (1) the management of a public ferry is assigned to a local authority such authority may levy tolls upon passengers, animals and vehicles at such rates as it may, subject to the control of the ¹[State] Government, fix. All money received by such authority under the provisions of the Act shall form part of its fund :</p> <p>Provided that when by an order of the ¹[State] Government all or any part of such money received by such local authority under the provisions of this Act are paid to such local authority, they shall be appropriated in the first instance towards payment of all charges incurred in carrying out the provisions of the Act and the surplus, if any, shall be treated to the fund of such local authority."</p>	
1920	XIV	The Madras Local Boards Act, 1920.	<p>(1) In the Madras Local Boards Act, 1920, including the long title, the preamble and the Schedule thereto for the words in the first column of the table below, the words in the corresponding entry in the second column thereof shall, except as otherwise provided, be substituted, namely :—</p> <p>(i) Local Board District Board.</p> <p>(ii) Local Boards District Boards.</p> <p>(iii) Local Fund District Fund.</p> <p>(iv) Village Fund District Fund.</p> <p>(2) Section 3—</p> <p>(i) Clause (3) shall be omitted.</p>	Ex-Madras areas.

¹ Sub. by the Adaptation of Laws Order, 1950.

Year	No.	Short title	Extent of repeal or amendment	Where the enactment is in force
1	2	3	4	5
1920— <i>contd.</i>	XIV — <i>contd.</i>	The Madras Local Boards Act, 1920 — <i>contd.</i>	<p>(ii) For clauses (11) and (12) the following clause shall be substituted, namely :—</p> <p>“(11) ‘non-Panchayat area’ means any area which is not comprised within the jurisdiction of a Grama Panchayat constituted under the Orissa Grama Panchayats Act, 1948;”</p> <p>(iii) For clauses (15-A) and (15-B) the following clauses shall be substituted, namely:—</p> <p>“(15-A). ‘Panchavat’ means a Grama Panchayat constituted under the Orissa Grama Panchayats Act, 1948;”</p> <p>“(15-B). ‘Panchayat area’ means the area comprised within the jurisdiction of Grama Panchayat constituted under the Orissa Grama Panchayats Act, 1948;”</p> <p>(1) Clauses (19-B), (19-C) and (23) shall be omitted.</p> <p>(3) In the heading under Chapter II, the words “AND VILLAGES” shall be omitted.</p> <p>(4) Section 5 shall be omitted.</p> <p>(5) Section 6—</p> <p>(i) In sub-section (1) the words “and for each village a Panchayat” shall be omitted.</p> <p>(ii) The proviso to sub-section (2) shall be omitted.</p> <p>(iii) The words “or village” and the words and figure “or 5 as the case may be” in sub-section (3) shall be omitted.</p> <p>(6) Section 7—For this section the following section shall be substituted, namely :—</p> <p>“7. The total number of members of a District Board shall not exceed 52 or be less than 24.”</p>	

Year	No.	Short title	Extent of repeal or amendment	Where the enactment is in force
1	2	3	4	5
1920— <i>contd.</i>	XIV— <i>contd.</i>	The Madras Local Boards Act, 1920— <i>contd.</i>	<p>(7) Section 9— (i) Sub-section (2) shall be omitted.</p> <p>(ii) In sub-section (3) the words, figure and brackets “or (2)” shall be omitted.</p> <p>(iii) In sub-section (6) for the words, figures and brackets “sub-sections (1) and (2)” the word, figure and brackets “sub-section (1)” shall be substituted.</p> <p>(8) Section 15—In clause (b) of sub-sections (1) and (2) for the words “president or vice-president of any other local board” the words “Sarpanch or Naib Sarpanch of a Panchayat” shall be substituted.</p> <p>(9) Section 22-A— (i) Clause (b) of sub-section (2) and sub-section (4) of section 22-A shall be omitted.</p> <p>(ii) In sub-section (3) of section 22-A, the words “in the case of district boards and of not less than 5 clear days in the case of Panchayats” shall be omitted.</p> <p>(10) Section 23—The words “and in the case of the President of a Panchayat subject also to the consent of the district board to any officer or servant of the district board” in sub-section (4) shall be omitted.</p> <p>(11) Section 26—In sub-section (1) for the words “within the local board area” the words “within the district” shall be substituted.</p> <p>(12) Section 27—Clause (b) of sub-section (2) shall be omitted.</p> <p>(13) Section 36— (i) sub-section (1) shall be omitted; (ii) the words “and of all the Panchayats in the district” in sub-section (2) shall be omitted.</p> <p>(14) Sections 37-D and 42— These sections shall be omitted.</p>	

Year	No.	Short title	Extent of repeal or amendment	Where the enactment is in force
1	2	3	4	5
1920— <i>contd.</i>	XIV— <i>contd.</i>	The Madras Local Boards Act, 1920— <i>contd.</i>	<p>(15) Section 45—In sub-section (1-A) the words “and to the district board in the case of a Panchayat” and the words “or boards” in both the places where they occur shall be omitted.</p> <p>(16) Section 45-A—This section shall be omitted.</p> <p>(17) Section 45-B—For this section the following section shall be substituted, namely :—</p> <p>“45-B.—When a local board is dissolved under section 45, the ¹[State] Government until the date of the reconstitution thereof and the reconstituted board thereafter shall be entitled to all the assets and be subject to all the liabilities of the boards as on the date of dissolution and reconstitution respectively.”</p> <p>(18) Section 46—Sub-section (2) shall be omitted.</p> <p>(19) Section 49— This section shall be omitted.</p> <p>(20) Section 51—In sub-section (3) the words “and when a village has been divided into wards and electoral roll for the Panchayat shall be divided into separate parts for each ward” shall be omitted.</p> <p>(21) Section 52—Clause (e) shall be omitted.</p> <p>(22) Section 56—In sub-section (1) for clause (g) the following clause shall be substituted, namely :—</p> <p>“(g) ceases to reside in the district or in a municipality or a cantonment, situated within three miles of the district;”.</p> <p>(23) Section 60—</p> <p>(i) For sub-section (1) the following sub-section shall be substituted, namely :—</p>	

¹ Sub. by the Adaptation of Laws Order, 1950.

Year	No.	Short title	Extent of repeal or amendment	Where the enactment is in force
1	2	3	4	5
1920— <i>contd.</i>	XIV— <i>contd.</i>	The Madras Local Boards Act, 1920— <i>contd.</i>	<p>“(1) All public roads in any district which are classed as district roads and all public roads in non-Panchayat areas in the district shall vest in the district board.”</p> <p>(ii) In sub-section (2) after the words “a public road” the words, figures and brackets “which vests in a district board under sub-section (1)” shall be inserted and for the words “any public road” the words “any such road” shall be substituted and the words “in which the public road vests” shall be omitted.</p> <p>(24) Section 62—For the words “vested in a local board” the words “vested in itself” and for the words “other local board” the word “Panchayat” shall be substituted.</p> <p>(25) Sections 65, 65-A and 65B—These sections shall be omitted.</p> <p>(26) Section 68—</p> <p>(i) In sub-section (1) the words “and a post of a District Panchayat Officer” shall be omitted.</p> <p>(ii) In the proviso to sub-section (3) for the words “District Health Officer or District Panchayat Officer” the words “or District Health Officer” shall be substituted.</p> <p>(27) Section 69—In sub-section (1) for the words “District Health Officer or District Panchayat Officer” the words “or District Health Officer” shall be substituted.</p> <p>(28) Section 69-B—This section shall be omitted.</p> <p>(29) Section 70—In this section for the words “the District Health Officer and the District Panchayat Officer” the words “and the District Health Officer” shall be substituted.</p>	

Year	No.	Short title	Extent of repeal or amendment	Where the enactment is in force
1	2	3	4	5
1920— <i>contd.</i>	XIV— <i>contd.</i>	The Madras Local Boards Act, 1920— <i>contd.</i>	<p>(30) Section 71—In sub-section (1) the words "and on the staff of Panchayats in the district" and sub-section (2) shall be omitted.</p> <p>(31) Section 72—In this section for the words 'the District Health Officer or the District Panchayat Officer' the words "or the District Health Officer" shall be substituted.</p> <p>(32) Section 73—In Sub-section (1) for the words "the District Health Officer and the District Panchayat Officer" the words "and the District Health Officer" shall be substituted.</p> <p>Sub-section (3) shall be omitted.</p> <p>(33) Section 73-B--In this section the words, figures and letter "and of any person appointed under section 69-B" shall be omitted.</p> <p>(34) Section 75—</p> <p>(i) For sub-section (1) the following sub-section shall be substituted, namely :—</p> <p>"(1) A district board may by a resolution determine that a profession tax shall be levied in all non-Panchayat areas in the district."</p> <p>(ii) Sub-section (2) shall be omitted.</p> <p>(iii) In sub-section (3) for the word "taxes" in clause (a), the words "the profession tax" shall be substituted and in the same sub-section in clause (b) for the words "existing tax" and "a tax" the words "existing profession tax" and "a profession tax" shall respectively be substituted and for the words "in the case of local boards which have an outstanding loan" the words "if the district board has an outstanding loan" shall be substituted.</p>	

Year	No.	Short title	Extent of repeal or amendment	Where the enactment is in force
1	2	3	4	5
1920— <i>contd.</i>	XIV— <i>contd.</i>	The Madras Local Boards Act, 1920— <i>contd.</i>	<p>(iv) In sub-section (4) the words, figure and brackets "or a notification under sub-section (2)" and the words "or notification" and "or Panchayat as the case may be" shall be omitted.</p> <p>(35) Section 77—Sub-section (2) shall be omitted.</p> <p>(36) Section 92—After section 91 the following section shall be inserted, namely :—</p> <p>"92. The proceeds of the land cess shall be credited to the district fund :</p> <p>Provided that the cess collected in any Panchayat area shall be distributed as follows :—</p> <p>(a) two-thirds of the cess shall be credited to the district fund, and</p> <p>(b) one-third of the cess shall be credited to the Panchayat fund".</p> <p>(37) Sections 93 to 94-A—For the words "local area" wherever they occur in these sections the words "non-Panchayat area" shall be substituted.</p> <p>(38) Sections 95 and 98 to 103—These sections shall be omitted.</p> <p>(39) Sections 96 and 97—In these two sections for the words "President of the Panchayat" the words "President of the District Board" shall be substituted.</p> <p>(40) Section 111—In this section the words "subject to the provision of section 103" shall be omitted.</p> <p>(41) Section 112—In sub-section (2) for the words "area of the local board" and "local board area", the words "district" shall be substituted.</p> <p>(42) Section 114—In this section the words "and for each village a village fund" shall be omitted.</p>	

Year	No.	Short title	Extent of repeal or amendment	Where the enactment is in force
1	2	3	4	5
1920— <i>contd.</i>	XIV— <i>contd.</i>	The Madras Local Boards Act, 1920— <i>contd.</i>	<p>(43) Section 115—In section 115 for the words “village and district funds” the words “the district funds” shall be substituted.</p> <p>(44) Section 116—In sub-section (2) for the words “Every local board” the words “The district board” shall be substituted and sub-section (3) shall be omitted.</p> <p>(45) Section 117—In sub-section (1) the words “of itself and of all Panchayats in the district” shall be omitted and in sub-section (2) for the words “any local board” the words “the district board” shall be substituted.</p> <p>(46) Section 118—This section shall be omitted.</p> <p>(47) Section 121—In sub-section (1) for the words “of a local board area” the words “of the district or any part thereof” shall be substituted.</p> <p>(48) Before section 122 and its heading the following heading and section shall be inserted, namely :—</p> <p style="text-align: center;">“APPLICATION OF THE CHAPTER TO PANCHAYAT AREAS</p> <p>121-B—The Provisions of this Chapter shall not apply to any Panchayat area.”</p> <p>(49) Section 150 shall be omitted.</p> <p>(50) Section 151—In clause (a) of sub-section (1) after the words “public road” the words “vested in” shall be inserted.</p> <p>(51) Sections 153 and 154 shall be omitted.</p> <p>(52) Section 157—In this section after the words “public road” the words “vested in a district board” shall be inserted.</p> <p>(53) Section 160—In sub-section (5) the words “or any class of local boards” shall be omitted,</p>	

Year	No.	Short title	Extent of repeal or amendment	Where the enactment is in force
1	2	3	4	5
1920— <i>contd.</i>	XIV— <i>contd.</i>	The Madras Local Boards Act, 1920— <i>contd.</i>	<p>(54) Section 161 shall be omitted.</p> <p>(55) Section 163—In sub-section (1) after the words "public road" the words "vested in a district board" shall be inserted.</p> <p>(56) Sections 167 to 198 shall be omitted.</p> <p>(57) Section 202—To this section the following proviso shall be added, namely :—</p> <p>"Provided that nothing contained in this section shall be deemed to authorise the district board to make bye-law for any area administered by a Panchayat except to the extent and in the manner required by the Orissa Grama Panchayats Act, 1948."</p> <p>(58) Section 203-A shall be omitted.</p> <p>(59) Sections 204 and 205—In these sections the words "or Panchayat" shall be omitted.</p> <p>(60) Section 205-A—</p> <p>(i) Sub-section (2) shall be omitted.</p> <p>(ii) In sub-section (3) the words "or Panchayat" and the words, figure and brackets "or (2) as the case may be" shall be omitted.</p> <p>(61) Section 206—In this section the words "or the Panchayat and" shall be omitted and for the words "to the village or to any specified area therein" the words "to any specified non-Panchayat area in the district" shall be substituted.</p> <p>(62) Section 218—In this section for the words "in the area of the local board concerned" the words "in the district" shall be substituted.</p> <p>(63) Section 233—In this section the words "in regard to any local board or any class of local boards or all local boards in that area" shall be omitted.</p>	

Year	No.	Short title	Extent of repeal or amendment	Where the enactment is in force
1	2	3	4	5
1920— <i>contd.</i>	XIV— <i>contd.</i>	The Madras Local Boards Act, 1920— <i>contd.</i>	<p>(64) Section 237—In sub-section (2) the words “for different classes of local boards” shall be omitted.</p> <p>(65) Section 240 —</p> <p>(i) In sub-section (2) the words and figure “or 5 as the case may be” shall be omitted.</p> <p>(ii) In clause (b) of sub-section (8) the words “or village” the word and figure “or 5” and the words “or panchayat as the case may be” shall be omitted.</p> <p>(66) Schedule II —</p> <p>(i) In rule (2), the words “and every Panchayat at least once in every month” shall be omitted.</p> <p>(ii) In sub-rule (1) of rule 3 after the words “No meeting” the words “of the district board” shall be inserted and the words “at least three clear days before the day of the meeting in the case of Panchayats and” and “in the case of district boards” shall be omitted.</p> <p>(iii) In sub-rule (1) of rule 4 the words “at least ten clear days before the day of the meeting in the case of Panchayats and” and the words “in the case of district boards” shall be omitted.</p> <p>(iv) Sub-rules (2), (3) and (4) of rule 11 shall be omitted.</p> <p>Schedule III—In rule 1 the words “or Panchayat” shall be omitted.</p> <p>(67) Schedule IV—</p> <p>(i) For rule 3 the following rule shall be substituted, namely :—</p> <p>“3. The District Collector shall cause the net proceeds of the land cess collected under the authority conferred on him by this Act to be credited to the district fund and the Panchayat fund in accordance with the provisions of section 92.”</p>	

Year	No.	Short title	Extent of repeal or amendment	Where the enactment is in force
1	2	3	4	5
1920— <i>contd.</i>	XIV— <i>contd.</i>	The Madras Local Boards Act, 1920 — <i>contd.</i>	<p>(ii) In rule 4 for the words "local board concerned" the words "district board or Panchayat concerned" shall be substituted.</p> <p>(iii) Rules 5, 6 and 7 shall be omitted.</p> <p>(iv) In rule 10 for the words "local area" in the two places where they occur, the words "non-Panchayat area" shall be substituted.</p> <p>(v) In sub-rule (1) of rule 11 for the words "the area of a single local board" in the opening paragraph, the words "the non-Panchayat area of a single district board" and for the words "the area of the local board" in clause (b) the words "the non-Panchayat area of the district board" shall be substituted.</p> <p>(vi) In sub-rule (2) of the same rule for the words "partly in the area of a local board" the words "partly in the non-Panchayat area of a district board" and for the words "in the area of the local board" occurring later the words "in the non-Panchayat area of the district board" shall be substituted.</p> <p>(vii) In sub-rule (3) of the same rule for the words "local area" in the two places where they occur, the words "non-Panchayat area" shall be substituted.</p> <p>(viii) Rules 11-A, 12 to 32 shall be omitted.</p> <p>(ix) Rule 38 shall be omitted.</p> <p>(x) In Appendix A, the words "and premises, if any, in respect of which the tax or taxes are due" and the words and brackets "(or as the case may be any goods and chattels found on the premises referred to)" shall be omitted.</p> <p>(68) Schedule V—</p> <p>(i) Rule 1-A shall be omitted.</p>	

Year	No.	Short title	Extent of repeal or amendment	Where the enactment is in force
1	2	3	4	5
1920— <i>contd.</i>	XIV— <i>contd.</i>	The Madras Local Boards Act, 1920— <i>contd.</i>	<p>(ii) In sub-rule (1) of rule I-B—</p> <p>(1) in clause (a) after the words "district roads" the words "all public roads in non-Panchayat areas" shall be inserted.</p> <p>(2) to clause (c) the words "and of all choolmes in non-Panchayat areas" shall be added at the end.</p> <p>(3) in clause (cc) for the portion beginning with the word "except" and ending with the words "district board" the following words shall be substituted, namely :—</p> <p>"except in any Panchayat area where a contribution is paid by the district board to the Panchayat on the scale fixed by the ¹[State] Government for the opening and maintenance of elementary schools."</p> <p>(4) to clause (hh) the following words shall be added at the end, namely :—</p> <p>"except in Panchayat areas where the ¹[State] Government have under the Orissa Grama Panchayats Act, 1948, ordered that vaccination shall be carried out by the Panchayat"</p> <p>(5) in clause (i) for the portion beginning with the word "except" and ending with the word "I-A" the following shall be substituted, namely :—</p> <p>"except, in Panchayat areas such measures as may have been ordered by the ¹[State] Government to be carried out by the Panchayat, under the Orissa Grama Panchayats Act, 1948."</p> <p>(6) to clause (1) the following words shall be added, namely :—</p> <p>"in non-Panchayat area."</p> <p>(7) to clause (m) the following words shall be added, namely :—</p> <p>"in non-Panchayat areas."</p>	

¹ Sub. by the Adaptation of Laws Order, 1950.

Year	No.	Short title	Extent of repeal or amendment	Where the enactment is in force
1	2	3	4	5
1920— <i>contd.</i>	XIV— <i>contd.</i>	The Madras Local Boards Act, 1920 — <i>contd.</i>	<p>(8) for clause (n) the following clause shall be substituted, namely :—</p> <p>“(n) the construction of drains and disposal of drainage water and sullage in any non-Panchayat area.”</p> <p>(iii) In sub-rule (2) of the same rule—</p> <p>(1) in clause (a) after the words “all district roads” the words “and on all public roads in non-Panchayat areas” shall be added.</p> <p>(2) in clause (d) for the words, figure and letter “of the district, which are not specifically included in any of the clauses in rule 1-A” the words “of non-Panchayat areas” shall be substituted.</p> <p>(3) in clause (e) before the words “municipal councils” the word “Panchayats” shall be inserted.</p> <p>(ii) Rules 2 and 3 shall be omitted.</p> <p>(v) In rule 4, for the words “any other local board” the words “any Panchayat” shall be substituted.</p> <p>(vi) (i) In rule 5 the words “village and” and “respectively” in the opening paragraph and the heading “A—Village Funds and all the items thereunder” shall be omitted and for the heading “B—District Funds” the heading “District Funds” shall be substituted and for items (1) and (1-A) under that heading, the following items shall be substituted, namely.—</p> <p>“(1) The land cess levied in the district, subject to the provisions of section 92.</p> <p>(2) The profession tax levied in non-Panchayat areas in the district under section 93.</p> <p>(2-A) The pilgrim tax levied in respect of any non-Panchayat area in the district.”</p>	

Year	No.	Short title	Extent of repeal or amendment	Where the enactment is in force
1	2	3	4	5
1920— concl.	XIV— concl.	The Madras Local Boards Act, 1920— concl.	<p>(ii) In item (5) under the same heading for the words "in the district" the words "in Panchayat areas" shall be substituted and after the words "district choultries" the words "and of all choultries in non-Panchayat areas" shall be added.</p> <p>(iii) In item (7) under the same heading for the words "and dispensaries classified as district hospitals and dispensaries" the words "of dispensaries in non-Panchayat areas" shall be substituted.</p> <p>(iv) In item (12) under the same heading after the words "all district roads" the words "and to all public roads in non-Panchayats areas" shall be added.</p> <p>(vii) Rule 6 shall be omitted.</p> <p>(viii) In Rule 8 clause (b) of sub-rule (2) shall be omitted and in clause (a) the words "and a Panchayat may with the sanction of the District Board" shall be omitted.</p> <p>(ix) In sub-rule (1) of rule 9, sub-clause (ii) of clause (b) shall be omitted and in sub-clause (i) thereof the words "in the case of District Boards or" shall be omitted.</p> <p>(69) In Schedule VIII the item relating to section 102 (1) shall be omitted.</p> <p>(70) In the absence of an intention to the contrary appearing in this Act or in the Orissa Grama Panchayats Act, 1948, and unless the ¹[State] Government otherwise direct, any reference to local boards in any law or rule in force in the ¹[State] at the commencement of this Act shall be deemed to be a reference to district boards and Panchayats, and any reference to the Madras Local Boards Act, 1920, in any such law or rule shall be deemed to be a reference to the Madras Local Boards Act, 1920, and the Orissa Grama Panchayats Act, 1948.</p>	

¹ Sub. by the Adaptation of Laws Order, 1950.

PART B

Enactments repealed or amended when the provisions of Chapter VI are brought into force in any specified area

Year	No.	Short title	Extent of repeal or amendment	Where the enactment is in force
1	2	3	4	5
1870	VI	The Village Choukidari Act, 1870.	The whole except the preamble and sections 1, 48 to 61 (Part II), 66, 67 and 69 and Schedules C and D shall be repealed.	Districts of Cuttack, Puri and Balasore.
1871	I	The Bengal Village Choukidari Act, 1871.	The whole shall be repealed	Do.
1886	I	The Bengal Village Choukidari (Amendment) Act, 1886.	Do.	Do.
1892	I	The Bengal Village Choukidari (Amendment) Act, 1892.	Do.	Do.
1922	III	The Bihar and Orissa Village Administration Act, 1922.	The provisions of Part III shall be repealed.	Do.

PART C

Enactments repealed or amended when the provisions of Chapter VII are brought into force in any area

Year	No.	Short title	Extent of repeal or amendment	Where the enactment is in force
1	2	3	4	5
1922	III	The Bihar and Orissa Village Administration Act, 1922.	The provisions of Part V shall be repealed.	Districts of Cuttack, Puri and Balasore.
1889	I	The Village Courts Act, 1889.	The whole shall be repealed	Ex-Madras areas.

SCHEDULE II

*Offences to be reported by a Choukidar**(See section 53)*

Murder, culpable homicide, rape (when the offender is not the husband of the woman raped), dacoity, robbery, theft, mischief by fire, house-breaking, counter feiting coins, causing grievous hurt, riot, administering stupefying drugs, kidnapping, and all attempts, preparations and conspiracies to commit, and abetments of the said offences.

SCHEDULE III

*Period of Limitation for certain suits**(See section 72)*

Description of suit	Period of Limitation	Time from which period begins to run
1	2	3
1. For the wages of a household servant, artisan or labourer.	One year	When the wages accrue due.
2. For the price of food or drink supplied by a keeper of a hotel, tavern or lodging-house.	Do.	When the food or drink is delivered.
3. For the price of lodging . . .	Do.	When the price becomes payable.

THE PUNJAB GRAM PANCHAYAT ACT, 1952*

Punjab Act No. IV of 1953

An Act to provide for better administration in the rural areas of Punjab by Panchayats

It is hereby enacted as follows :—

CHAPTER I

PRELIMINARY

- Short title and extent.** 1. (1) This Act may be called the Punjab Gram Panchayat Act, 1952.
- (2) It extends to the whole of the State of Punjab.
- (3) It shall come into force at once.
- Repeal and saving.** 2. The Punjab Village Panchayat Act, 1939, is hereby repealed. But, notwithstanding such repeal, anything done Punjab Act XI of 1939. or any action taken in exercise of powers conferred by the repealed Act shall be deemed to have been done or taken under this Act to the extent that it is not inconsistent with the provisions of this Act :
- Provided that the Panches in an existing Panchayat shall not be affected by the provisions of section 5 of this Act.
- Definitions.** 3. In this Act, unless the context otherwise requires,
- (a) “adult” means a person, male or female, who has attained the age of 21 years;
 - (b) “building” means any shop, house, hut, outhouse, shed or stable, whether used for the purpose of human habitation or otherwise and whether of masonry, bricks, wood, mud, thatch, metal or any other material whatever; and includes a wall and a well;
 - (c) “by-laws” means by-laws made by the panchayat under this Act;
 - (d) “common land” means land which is not in the exclusive use of any individual and has by usage, custom or prescription been reserved for the common purposes of village community or has been acquired for such purposes;
 - (e) “Director” means the Director of Panchayats appointed under this Act;
 - (f) “Gram Panchayat area” means any area declared as such under this Act;

* This Act replaces the Punjab Village Panchayat Act, 1939, which was formerly in force in the Punjab and which has been commented upon in the Introduction.

- (g) "Gram Panchayat" means the Panchayat constituted under this Act;
- (h) "Government" means the Government of the State of Punjab;
- (i) "Panch" means a member of Gram Panchayat, Thana Panchayat Union or an Adalati Panchayat elected or appointed under this Act and includes a Sarpanch;
- (j) "prescribed" means prescribed by rules made under this Act;
- (k) "public place" means any place, building or structure situated within the jurisdiction of a Gram Panchayat area to which the public has free access;
- XIV of 1860. (l) "public servant" means a public servant as defined in section 21 of the Indian Penal Code, 1860, and shall include a Panch and a Sarpanch;
- (m) "public street" means a pathway, road, street, bridge, lane, square, court, alley or passage in a village, which the public has a right to use, and includes the drains or gutters on either side and the land up to the defined boundary of any abutting property, notwithstanding any projection over such land of any verandah or other superstructure;
- (n) "Schedule" means the Schedule appended to this Act;
- (o) "sub-committee" means a sub-committee appointed under section 33 of this Act;
- (p) "tax" includes a cess, duty fee, rate, toll or other impost leviable under this Act;
- (q) "village" means any local area, recorded as a revenue estate in the revenue records of the district in which it is situated;
- VIII of 1873.
III of 1905. (r) "watercourse" means any channel which is maintained at the cost of the irrigators and is supplied with water from any canal to which either the Northern India Canal and Drainage Act, 1873, or the Punjab Minor Canals Act, 1905, applies, and includes all subsidiary works connected with such channel except the sluice or outlet through which water is supplied to such channel.
- V of 1898. (s) the expressions "offence", "non-bailable offence", "cognizable offence", "complaint", "officer-in-charge of a police station", and "police station" have the same meaning as in section 4 of the Code of Criminal Procedure, 1898;
- V of 1908. (t) the expressions "decree", "decree-holder", "judgment-debtor", "legal representative" and "movable property" have the same meaning as in section 2 of the Code of Civil Procedure, 1908;
- VII of 1887. (u) the expressions "land owner", "tenant", "rent" and "land revenue" have the same meaning as in the Punjab Land Revenue Act, 1887.

CHAPTER II

GRAM PANCHAYAT—ESTABLISHMENT AND CONSTITUTION

Demarcation of Gram Panchayat area. 4. (1) Government may by notification declare any village with a population of not less than five hundred to constitute one or more Gram Panchayat areas :

Provided that neither the whole nor any part of—

- (a) a Notified Area established under section 241 of the Punjab Municipal Act, 1911, V of 1911.
- (b) a Cantonment,
- (c) a Municipality, or
- (d) a Small Town,

shall be included in the area of a Gram Panchayat, unless the majority of voters in any Notified Area or Small Town desire the establishment of a Gram Panchayat in which cases the assets and liabilities, if any, of such Notified Area or Small Town shall vest in the Gram Panchayat thereafter established, and the said Notified Area Committee or the Small Town Committee shall cease to exist.

(2) Where a village has a population of less than five hundred, Government may group that village with any contiguous village or villages so that the total population of all the villages so grouped is not less than five hundred, and shall declare the villages so grouped to be a Gram Panchayat area for the purposes of this Act :

Provided that the Government may, in any particular case relax the limit of five hundred.

(3) Government may, by notification, include or exclude any area from the area of a Gram Panchayat.

Establishment and Constitution. 5. (1) Government may, by notification, establish a Gram Panchayat by name in every Gram Panchayat area.

(2) Every such Gram Panchayat shall consist of five to nine Panches who shall be elected by all adults, entered as voters on the electoral rolls for the State Legislative Assembly, in force for the time being, and pertaining to the Gram Panchayat area.

(3) The election shall be by direct vote in the manner prescribed and the prescribed number of candidates securing the highest number of valid votes shall be deemed to have been duly elected :

Provided that for the period expiring on 26th January 1960, where the population of the Scheduled castes in the Gram Panchayat area is not less than 10 per cent. of the total population and no member of the Scheduled Caste is amongst the first five, the Scheduled Caste candidate securing the highest number of votes amongst such candidates shall be deemed to have been elected as the fifth Panch and in the case of a Panchayat with more than six Panches, two Scheduled Caste candidates securing the highest number of votes shall be deemed to have been elected as the last two Panches :

Provided further that the expiry of the period referred to above shall not affect the constitution of a Gram Panchayat existing at the time.

(4) No person who is not entered as a voter on the Electoral roll of the State Legislative Assembly for the time being in force, and pertaining to the Gram Panchayat area, and who—

- (a) has been convicted of any offence involving moral turpitude and sentenced to imprisonment for not less than one year, unless a period of five years has elapsed since his conviction;
- (b) has been subjected to an order by a criminal court and which order in the opinion of Government or of the officer to whom Government has delegated its powers of removal, implies a defect of character unfitting him to be a Panch, unless a period of five years has elapsed since the date of order;
- (c) has been notified as disqualified for appointment in public service, except on medical grounds;
- (d) is a whole-time salaried servant of any local authority, State or the Union of India; or
- (e) is registered as a habitual offender under the Punjab Habitual Offenders (Control and Reform) Act, 1952 ;
- (f) is an undischarged insolvent; or
- (g) has not paid the arrears of tax imposed by the Panchayat under this Act,

shall be entitled to stand for election as, or continue to be, a Panch.

6. (1) A Gram Panchayat shall exercise powers as an ordinary Panchayat, and shall have jurisdiction over matters laid down in Schedule I-A. Powers and jurisdiction of Gram Panchayat.

(2) The Government shall have power to confer upon any Gram Panchayat or elected representatives of a group of Gram Panchayats, enhanced powers. Such Panchayats or representatives shall have jurisdiction over matters laid down in Schedule I-B.

(3) When enhanced powers are to be conferred on representatives of a group of Panchayats, the Panches of the Panchayats concerned shall elect five Adalati Panches from amongst themselves by direct voting, the five Panches securing the highest number of votes being deemed to have been elected.

(4) The Adalati Panches elected as aforesaid shall exercise the enhanced powers referred to in sub-section (2), and shall have jurisdiction over the combined panchayat areas of the Panchayats concerned, and when acting as such shall together be known as an Adalati Panchayat.*

Vacancy not
to vitiate
proceeding.

7. No proceeding of the Gram Panchayat or a Thana Panchayat Union or an Adalati Panchayat shall be invalid for the mere fact of there being a vacancy amongst its members.

Incorporation of Panchayat and effect of dissolution.

8. (1) Every Gram Panchayat shall, by name, be a body corporate having perpetual succession, and shall, subject to any restriction or condition imposed by or under this Act, have power to acquire, by purchase, gift or otherwise, to hold, administer and transfer property, both movable and immovable, and to enter into any contract, and shall, by the said name, sue or be sued.

(2) If the whole of the area of a Gram Panchayat is included in a municipality, cantonment, notified area or small town area the Gram Panchayat shall cease to exist and its assets and liabilities shall be disposed of in the manner prescribed. If a part of such area is so included its jurisdiction shall be reduced by that part.

Election of Sarpanch.

9. (1) Immediately after the election of the Panches, they shall elect from amongst themselves a Sarpanch.

(2) The Sarpanch and Panches shall take the prescribed oath and shall, except as otherwise provided in this Act, hold office for three years :

Provided that an outgoing Panch shall, unless the Government otherwise directs, continue to hold office until his successor has taken the prescribed oath.

Election petition.

10. (1) Any voter of the Gram Panchayat, and in the case of election of Adalati Panches, any Panch, may within twenty-one days of the date of announcement of the result of an election, prefer a petition in writing to the prescribed authority against the said election, in the prescribed manner.

(2) The prescribed authority shall institute an enquiry into the petition and shall set aside the election, if a material irregularity has occurred and thereupon a fresh election shall be held.

(3) Except as provided in this Section, no election of a Panch or a Sarpanch or an Adalati Panch shall be called in question before any authority or any Court.

Explanation.—“Material irregularity” includes any improper acceptance or refusal of any nomination or vote or any other mistake as materially affects the result of an election.

Motion of no confidence.

11. The Gram Panchayat may at any special meeting, convened for the purpose, remove the Sarpanch if at least two-thirds of the Panches vote for such removal :

Provided that no such meeting shall be held without the previous permission of the Director.

12. Whenever a vacancy occurs by the death, resignation or removal of a Panch, or a Sarpanch or an Adalati Panch a new Panch or Sarpanch or an Adalati Panch, as the case may be, shall be elected in such manner as may be prescribed and the person so elected shall hold office for the unexpired portion of the term for which the person in whose place he was elected would have otherwise continued in office. Filling of casual vacancies.

13. If for any reason a Sarpanch or a sufficient number of Panches or Adalati Panches are not elected, or a casual vacancy is not filled within the time prescribed, the prescribed authority may appoint the necessary number of duly qualified persons as a Sarpanch or Panch or an Adalati Panch, as the case may be, and any such person shall hold office for the unexpired portion of the term for which the person in whose place he was appointed would have otherwise continued in office. Appointments in cases of default.

CHAPTER III

GRAM PANCHAYATS—CONDUCT OF BUSINESS, DUTIES, FUNCTIONS, AND POWERS.

14. (1) The meetings of the Gram Panchayat shall be public and shall be held at least once a month at some place within the Gram Panchayat area for which it is established, whenever called by the Sarpanch : Meetings.

Provided that the Sarpanch, when required in writing by a majority of the Panches to call a meeting, shall do so within three days, failing which these Panches shall, with the previous approval of the prescribed authority, be entitled to call a meeting after giving a week's notice to the Sarpanch and the other Panches.

(2) Three Panches shall form a quorum.

Quorum.

(3) The decisions of the panchayat shall be by majority and when the voting is equal, the Chairman shall have an additional or casting vote.

15. The Sarpanch, and in his absence, the Panch elected by the Panchayat for the purpose, shall be responsible for the due maintenance of all prescribed records and registers. Maintenance of Panchayat records.

16. Subject to such rules as may be prescribed, the Gram Panchayat may employ such servants as are considered necessary for carrying out the duties imposed upon it by this Act and shall pay the remuneration of such servants out of the Gram Fund. Employment of servants.

17. Subject to such rules as may be prescribed, a Gram Panchayat may suspend, dismiss or otherwise punish its servants. Punishment and dismissal of servants.

18. A Gram Panchayat may, in accordance with rules made under this Act :— Provident Fund and gratuity for servants.

(a) establish and maintain a provident fund on behalf of its servants, and

- (b) grant a gratuity to any servant subject to the previous approval of the Director.

Administrative duties.

19. (1) Subject to such rules as may be prescribed, it shall be the duty of the Gram Panchayat within the limits of the funds at its disposal, to make arrangements for carrying out the requirements of the Gram Panchayat area in respect of the following matters including all subsidiary works and buildings connected therewith :—

- (a) any public place including its sanitation and drains;
- (b) wells, water pumps, baolies, springs, ponds and tanks for the supply of water for drinking, washing and bathing;
- (c) burial and cremation grounds;
- (d) the lighting of public places;
- (e) buildings for the accommodation of travellers;
- (f) ponds for animals;
- (g) the relief of the poor;
- (h) public health and sanitation;
- (i) the organisation and celebrations of public festivals, other than religious festivals;
- (j) the improvement of the breeds of animals used for agricultural or domestic purposes;
- (k) public gardens, playgrounds, establishment and maintenance of recreation parks, organization of games and sports, supply of sports material and holding of tournaments;
- (l) libraries and reading rooms;
- (m) the voluntary registration of the sales of cattle, camels and horses;
- (n) the development of agriculture and village industries, and the destruction of weeds and pests;
- (o) starting and maintaining a grain fund for the cultivators and lending them seed for sowing purposes on such conditions as the Gram Panchayat may approve;
- (p) the construction, repair and maintenance of public places and buildings of public utility;
- (q) allotment of places for preparation and conservation of manure;
- (r) construction and maintenance of culverts and bridges; and
- (s) the laying out of new roads and pathways and maintenance of existing ones.

(2) Subject to such exceptions as Government may, by general or special order, make a Gram Panchayat may, and shall, if Government so directs or prescribes, make provisions for—

- (a) the establishment, maintenance and management of maternity and child welfare centres and the construction and repair of all buildings connected therewith;
- (b) medical relief and first-aid;
- (c) the promotion of agricultural credit and of measures including establishment of provision and implement stores and credit centres to relieve rural indebtedness and poverty;
- (d) establishment and maintenance of first-aid centres for animals;
- (e) relief against famine or other calamity;
- (f) providing such educational facilities as may be deemed necessary and desirable; and
- (g) any other matter which Government may declare to be fit and proper to be taken under the control and administration of the Gram Panchayat:

Provided that nothing in this section shall be deemed to impose any duty or confer any power on the Gram Panchayat with respect to any matter which is under the direct administrative control of any department of Government or local authority, unless such duty or power has been transferred or delegated to the Gram Panchayat by order of Government or, as the case may be, of the local authority:

Provided further that where Government makes any such direction, Government shall from time to time allot to the Panchayat such funds or place at the disposal of the Gram Panchayat such sources of income as it may deem sufficient.

(3) It shall be the duty of the Gram Panchayat within its area to perform—

- (a) the duties of the Panchayat under the Punjab Village and Small Town Patrol Act, 1918; and
- (b) such duties of village headmen in connection with village watchmen as Government may prescribe by rules under section 39-A of the Punjab Laws Act, 1872.

IV of 1872.

20. Notwithstanding anything to the contrary in the Punjab District Boards Act, 1883, the district board may and shall, if so required by Government, delegate any of the following duties to the Gram Panchayat, namely—

- (a) any matter under the direct administrative control of the District Board;
- (b) the maintenance or improvement of any property under the control or management of the District Board;

Functions of the district board which may be delegated to the Gram Panchayat.

XX of 1883.

- (c) the control and management of the cattle ponds which are under the control of the District Board:

Provided that the funds necessary for the performance of the duties so delegated shall be placed by the District Board at the disposal of the Gram Panchayat, and in case of default the Government may, by an order in writing, direct the person having the custody of the District Board Fund to place the fund at the disposal of the Gram Panchayat.

Power to require removal of encroachments and nuisance.

21. (1) A Gram Panchayat on receiving a report or other information and on taking such evidence, if any, as it thinks fit, may make a conditional order requiring within a time to be fixed in the order :—

- (a) the owner or the occupier of any building or land—
 - (i) to remove any encroachment on a public street, place or drain;
 - (ii) to close, remove, alter, repair, cleanse, disinfect or put in good order any latrine, urinal, water-closet, drain, cesspool or other receptacle for filth, sullage-water, rubbish or refuse or to remove or alter any door or trap or construct any drain for any such latrine, urinal or water-closet which opens on to a street or drain, or to shut off such latrine, urinal or water-closet by a sufficient roof and wall or fence from the view of persons passing by or dwelling in the neighbourhood;
 - (iii) to cleanse, repair, cover, fill up, drain off, deepen or to remove water from a private well, tank, reservoir, pool, pit, ditch, depression or excavation therein which may appear to the Gram Panchayat to be injurious to health or offensive to the neighbourhood;
 - (iv) to remove any dirt, dung, night-soil, manure or any noxious or offensive matter therefrom and to cleanse the land or building;
- (b) the owner of any wall or building, which is deemed by the Gram Panchayat to be in any way dangerous, to remove or repair such wall or building;
- (c) the owner or occupier of any building or property to keep his building or property in a sanitary state;
- (d) the owner of any dog or other animal suffering or reasonably suspected to be suffering from rabies, or which is dangerous, to destroy or confine or cause to be confined such dog or animal;
- (e) the owner or occupier of any agricultural land to destroy Pohli or any other such harmful weed from such land;
- (f) the owner or occupier concerned to reclaim an unhealthy place;

- (g) the owner or occupier of any building or land to maintain in proper repair the level and surface of any road or street passing in front of the building or through his land;
- (h) the owner or person in charge of a private "Khal" to keep it in a state of reasonable repair.

Or if he objects so to do to appear before it, at a time and place to be fixed by the order and to move to have the order set aside or modified in the manner hereinafter provided. If he does not perform such act or appear and show cause the order shall be made absolute. If he appears and shows cause against the order the Gram Panchayat shall take evidence and if it is satisfied that the order is not reasonable and proper no further proceedings shall be taken in the case. If it is not so satisfied the order shall be made absolute.

(2) If such act is not performed within the time fixed, the Gram Panchayat may cause it to be performed and may recover the costs of performing it from such person.

22. A Gram Panchayat may by general order to be published in the manner prescribed :—

Power to make general orders.

- (a) prohibit the use of water of a well, pond or other excavation suspected to be dangerous to the public health;
- (b) regulate or prohibit the watering of cattle or bathing or washing at or near wells, ponds, or other excavations, reserved for drinking water;
- (c) regulate or prohibit the steeping of hemp or any other plant in or near ponds or other excavations within two hundred and twenty yards of the residential area of a village;
- (d) regulate or prohibit the dyeing or tanning of skins within four hundred and forty yards of the residential area of a village :

Provided that where the dyeing or tanning of skins was so practised at the time of the establishment of the Gram Panchayat under the Punjab Village Panchayat Act, 1939, or Punjab Panchayat Act, 1921, it shall not be prohibited unless the Gram Panchayat provides reasonable facilities for practising it outside the four hundred and forty yards limits;

- (e) regulate or prohibit the excavation of earth or stone or other materials within two hundred and twenty yards of the residential area of a village :

Provided that nothing shall be done under this clause to prevent excavations meant to be filled by the foundation of buildings or other structures;

- (f) regulate or prohibit the establishment of brick kilns and charcoal kilns within eight hundred and eighty yards and pottery kilns within two hundred and twenty yards of the residential area of a village :

XI of 1939.

III of 1921.

Provided that where a pottery kiln was working at the time of the establishment of Gram Panchayat under the Punjab Village Panchayat Act, 1939, and the Punjab Panchayat Act, 1921, it shall not be prohibited unless the Gram Panchayat provides reasonable facilities for practising it outside the two hundred and twenty yards limits; XI of 1939-III of 1921.

(g) direct that the carcasses of all animals dying within the village, except animals slaughtered for consumption shall not be disposed of within a radius of 440 yards of the residential area of the village :

Provided that nothing shall be done under this clause to interfere with the legal rights of any person;

(h) regulate the construction of new buildings or the extension or alterations of any existing building or the abadi ;

(i) regulate with the previous permission of Government the parking of public vehicles;

(j) regulate such matters as may be necessary for the general protection of standing crops and trees on common land and the planting of such trees;

(k) regulate the observance of sanitation and taking curative and preventive measures to remove and prevent the spread of epidemics;

(l) regulate the maintenance of water-courses meant for irrigation purposes;

(m) regulate the killing of stray dogs;

(n) regulate the slaughter of animals; and

(o) prohibit beggary.

Penalty for disobedience of a special or general order of the Panchayat. 23. Any person who disobeys an order of the Gram Panchayat made under the two last preceding sections, shall be liable to a penalty which may extend to twenty-five rupees; and if the breach is a continuing breach with a further penalty which may extend to one rupee for every day after the first during which the breach continues :

Provided that the recurring fine shall not exceed the sum of rupees five hundred.

Power to enquire and make report about misconduct of petty officials. 24. (1) On a complaint being made to the Gram Panchayat by any person that a peon, bailiff, constable, chaukidar, patrol of the Irrigation Department, forest guard, patwari, or vaccinator, canal overseer, head constable, game watcher or any other class of public servants to which Government may by notification extend the provisions of this section has misconducted himself in his official capacity, the Gram Panchayat may enquire into the matter and submit a report along with the *prima facie* evidence to the superior officer whom it may concern, or to the Deputy Commissioner.

The Authority shall, after such further enquiry as may be required take suitable action and inform the Gram Panchayat of the result :

Provided that nothing in this section shall be construed as empowering the Gram Panchayat to summon any such officials or to exercise control, disciplinary or otherwise over them.

(2) On the report being made by any person that a Supervision patwari, or chaukidar has failed to perform any duty of patwaris imposed upon him by any laws or rules, the Gram Panchayat may by notice fixing a reasonable period require him to perform the said duty and on his failure to do so shall report the matter to the superior officer whom it may concern, or to the Deputy Commissioner. Result of the action taken thereon shall be communicated to the Gram Panchayat.

25. A Gram Panchayat may, notwithstanding any law to the contrary, in respect of any area within its jurisdiction, enter into contract with Government or a local body to collect land revenue or any taxes or dues payable to Government or a local body on being allowed such collection charges as may be prescribed. Power to contract for the collection of taxes and other dues.

26. (1) A Gram Panchayat may, by vote of at least two-thirds majority of Panches direct that intoxicating liquor may not be sold at any licensed shop within the local area of the Gram Panchayat. Power to introduce prohibition.

(2) When a resolution has been passed under sub-section (1) above it shall, notwithstanding any resolution passed by an empowered District Board under section 5 of the Punjab Local Option Act, 1923, take effect from the first day of April of the year next after such resolution. of 1923.

(3) Notwithstanding anything contained in the Punjab Excise Act, 1914, and the rules made thereunder with regard to the powers and functions of the Collector under the said Act, such a resolution will be binding upon the Excise and Taxation Commissioner : I of 1914.

Provided that if the Excise and Taxation Commissioner is of opinion for reasons to be recorded in writing that within such local area illicit distillation or smuggling of alcohol has been carried on or connived at, within two years preceding the date of the passing of such resolution, in such local area, such resolutions shall not be binding upon him, unless the Government orders that it shall be so binding.

27. (1) A Gram Panchayat may, from time to time, make by-laws consistent with this Act and with any rules made thereunder generally for carrying out all or any of the purposes of this Act. By-laws.

(2) In making a by-law under sub-section (1) the Gram Panchayat may direct that a breach of it shall be punishable with fine, which may extend to ten rupees and if the breach is continuous with a further fine of one rupee for every day after the first during which the breach continues.

(3) The power conferred under this section to make by-laws is subject to the condition of previous publication for such time and in such manner as the Director may determine, and no by-law shall come into force until it has been confirmed by the Director.

Entry and inspection.

28. The Sarpanch of the Gram Panchayat and, if authorised in writing in this behalf by the Gram Panchayat, any other Panch may enter into or upon any building or land with or without assistants or workmen, in order to make an inspection or survey or to execute a work which a Gram Panchayat is authorised by this Act or by rules or by-laws made thereunder to make or execute, or which it is necessary for a Gram Panchayat for any of the purposes or in pursuance of any of the provisions of this Act or of rules or by-laws, to make or execute :

Provided that—

- (a) except when it is under this Act otherwise expressly provided no such entry shall be made between sunset and sunrise;
- (b) sufficient notice shall in every instance be given even when any premises can otherwise be entered without notice to enable the inmates of an apartment occupied by women to remove themselves to some part of the premises where their privacy shall not be disturbed; and
- (c) due regard shall always be had to the social and religious usages of the occupants of the premises entered.

Transfer of forest area or irrigation work.

29. (1) Government may, subject to such conditions as may be prescribed, transfer to any Gram Panchayat the management and maintenance of a forest and Government waste land within and near the boundaries of its jurisdiction.

(2) Government may, subject to such conditions as may be prescribed transfer to any Gram Panchayat the protection of any irrigation work and its extensions and the regulation of the distribution of water from any such work.

Acquisition of land.

30. When a Gram Panchayat requires any land to carry out any purpose of this Act, it shall first try to obtain the land by private negotiations and if the parties concerned fail to arrive at an agreement, such Gram Panchayat may make an application in the prescribed form to the Collector to acquire the land and the Collector may acquire such land under the provisions of the Land Acquisition Act, 1894. Act I of 1894.

Explanation.—In this Chapter the expression ‘land’ includes benefits to arise out of land, and things attached to the earth or permanently fastened to anything attached to the earth.

Power to manage fairs and markets.

31. The Gram Panchayat may with the consent of district board start, manage and regulate new fairs and markets with such conditions as to the share of income accruing therefrom as may be mutually agreed upon.

32. A Gram Panchayat shall have control of all public streets, waterways, other than canals as defined in sub-section (1) of section 3 of the Northern India Canal and Drainage Act, 1873, situate within its jurisdiction not being a private street or waterway and not being under the control of Government or district board or any other authority specified by Government and may do all things necessary for the maintenance and repair thereof, and may—

- VII of 1873.**
- (a) construct new bridges or culverts ;
 - (b) divert, discontinue or close any public street, culvert or bridge;
 - (c) widen, open, enlarge or otherwise improve any public street, culvert or bridge with minimum damage to the neighbouring fields;
 - (d) deepen or otherwise improve waterways;
 - (e) with the sanction of the prescribed authority and where a canal exists under the Northern India Canal and Drainage Act, 1873, with the sanction also of such officer of the Irrigation Department as Government may appoint, undertake small irrigation projects;
 - (f) cut any hedge or branch of any tree projecting on a public street;
 - (g) notify the setting apart of any public water-course for drinking or culinary purposes, and prohibit bathing, washing of clothes and animals or doing of other acts likely to pollute the course so set apart :
- VIII of 1873.**

VIII of 1873. Provided that nothing shall be done under clause (g) which may affect a canal governed by the Northern India Canal and Drainage Act, 1873, without the prior permission of the authority prescribed by Government in this behalf.

33. A Gram Panchayat may, for the discharge of its administrative functions and duties, appoint Sub-Committees which shall exercise such powers as may be delegated to them by the Gram Panchayat and shall be subject to its general control.

34. The Gram Panchayat shall give such help as may be prescribed to the department concerned in the efficient running of the schools, hospitals and dispensaries in or near its jurisdiction.

35. Where a group of neighbouring Gram Panchayat areas have no primary school, hospital or dispensary, the Gram Panchayats thereof shall, if so directed by the prescribed authority, combine to help in establishing such a school, hospital or Ayurvedic or Unani dispensary and it shall be managed in the manner prescribed :

Power over
waterways,
etc.

Help in
maintenance
and improve-
ment of
schools and
hospitals or
dispensaries.

Establish-
ment of pri-
mary schools,
hospitals or
dispensaries
for a group
of Pancha-
yats.

Provided that Government or the District Board shall place such funds, as may be necessary for the purpose, at the disposal of the Gram Panchayats concerned.

Assistance to Government servants.

36. A Gram Panchayat shall if so prescribed by Government and so far as practicable assist any Government servant in the performance of his duties within its area.

Power to take over management of institutions, etc.

37. Subject to rules made under this Act and to conditions agreed upon in writing a Gram Panchayat may receive from any person any property vested in him, or the management of any institution, or the execution or maintenance of any work, or the performance of any duty, within its area :

Provided that no work costing more than five hundred rupees shall be entrusted to, or undertaken by, a Panchayat except with the previous approval of the Director.

CHAPTER IV

CRIMINAL JUDICIAL FUNCTIONS

Jurisdiction.

38. The criminal jurisdiction of a Gram Panchayat shall be confined to the trial of offences specified in Schedule 1.

Additional power of Gram Panchayats.

39. Every Panchayat with enhanced powers and every Adalati Panchayat shall have jurisdiction to try—

- (1) the offences mentioned in Schedule I-B provided that the value of the property concerned with the offence is not in excess of two hundred and fifty rupees, but shall not empower the said Panchayats to try any person liable to enhanced punishment under section 75 of the I.P.C.
- (2) any other offence, not punishable with imprisonment for more than two years, which Government may, by notification, declare to be triable by such Panchayats.

Jurisdiction, etc.

40. (1) For the purpose of deciding whether an offence falls within the jurisdiction of a Gram Panchayat, the provisions of sections 179 to 182 of the Code of Criminal Procedure, 1898, shall apply.

V of 1898.

(2) The Gram Panchayat shall be deemed to be Criminal Court when trying a criminal case.

Transfers.

41. Any magistrate before whom a complaint or report by the police of any offence triable by a Gram Panchayat is brought or who takes cognizance of any such offence upon his own knowledge or suspicion shall transfer the proceedings to the Gram Panchayat of competent jurisdiction :

Provided that a District Magistrate may for reasons to be recorded in writing transfer any criminal case from one Gram Panchayat to another Gram Panchayat of competent jurisdiction or to another court subordinate to him.

42. (1) Subject to the provisions of sub-section (3) no Gram Panchayat shall take cognizance of any offence under the Indian Penal Code, 1860, in which either the complainant or the accused is a public servant. Exclusion of certain cases.

(2) When information relating to the commission of a cognizable offence triable by a Gram Panchayat has been given to an officer-in-charge of a police station, he shall forthwith send a copy of the First Information Report to the Gram Panchayat competent to try such an offence and such Gram Panchayat shall not proceed to try any complaint relating to the same facts nor shall it issue any summons in the matter, until the officer has intimated in writing that the investigation has been concluded. Such officer shall send the information to the Gram Panchayat after the conclusion of the investigation.

(3) No criminal case shall be heard by any Gram Panchayat when a criminal case on substantially the same facts against the same person has been heard and finally decided by a competent Court or Panchayat.

43. (1) Any person who wishes to institute a criminal case before a Gram Panchayat shall make a complaint orally or in writing to the Sarpanch, and in his absence to any Panch and shall at the same time pay the fee prescribed in Schedule III : Cognizance of criminal cases.

Provided that if the court-fee stamp is not available at the place where the Gram Panchayat ordinarily sits, an equivalent amount in cash shall be paid.

(2) If the complaint is made orally, such particulars as may be prescribed shall be recorded by the Sarpanch or the Panch as the case may be.

(3) Notwithstanding anything contained in sub-section (1) a Panchayat shall be competent to take cognizance *suo moto* of cases falling under sections 160, 228, 264, 267, 277, 289, 290, 294 and 510 of the Indian Penal Code ; and under Sections 3 and 4 of the Punjab Juvenile Smoking

VII of 1918. Act, 1918.

44. (1) The Gram Panchayat may, after examining the complaint, if any, and after further enquiry, if necessary, either dismiss the complaint or summon the accused to attend. Action on complaint.

(2) If the complainant fails to appear on the date fixed for hearing, or if in the opinion of the Gram Panchayat he shows negligence, in prosecuting the case, the Gram Panchayat may dismiss the case and such order shall subject to the provisions of sub-section (3) operate as an acquittal.

(3) If the complainant satisfies the Gram Panchayat that his absence was due to some unavoidable cause and that he could not notify the Gram Panchayat thereof before the hearing the Gram Panchayat may revive the proceeding :

Provided that no order of dismissal shall be set aside without a notice to the accused, if it has been passed after his appearance before the Gram Panchayat.

Power of Gram Panchayats to refuse to entertain criminal case.

45. If at any time it appears to the Gram Panchayat that the offence is one for which the sentence which the Gram Panchayat is competent to pass would be inadequate, it shall send the record of the case by order in writing to the District Magistrate.

Proceedings on failure of the accused to appear.

46. (1) If the accused fails to appear or cannot be found, the Gram Panchayat shall report the fact to the nearest Magistrate.

(2) The Magistrate shall issue a warrant for the arrest of the accused and shall direct by endorsement on the warrant that if such person executes a bond with sufficient sureties for his attendance before himself in the manner provided by section 76 of the Code of Criminal Procedure, 1898, he shall be released from custody.

V of 1898.

(3) When the accused appears before the Magistrate he shall direct him to execute a bond with or without sureties to appear before the Gram Panchayat, Sarpanch, or any Panch on such date as he may direct and thereafter to continue to appear before the Gram Panchayat as directed by such person or the Gram Panchayat.

(4) On his failure to execute such bond the Magistrate shall order that the accused be produced in custody before the person mentioned in sub-section (3) of the Gram Panchayat on such date not more than fifteen days later as he may direct.

(5) If the accused fails to appear before the Panchayat after executing a bond under sub-section (3) the Panchayat shall report the fact to the Magistrate before whom the bond was executed, and such Magistrate shall proceed in accordance with the provisions of Chapter XLII of the Code of Criminal Procedure, 1898.

V of 1898.

Prompt disposal of criminal cases.

47. (1) The Gram Panchayat shall if possible try a criminal case and pass orders on the day on which the accused appears and, if that is not possible, may, if he is not already on bail, require him to execute a bond with or without sureties for a sum not exceeding five hundred rupees to appear before the Gram Panchayat on any subsequent day or days to which the trial may be adjourned.

(2) The amount of such bond if forfeited shall be recoverable by the Gram Panchayat as if it were a fine imposed by it.

(3) If the accused fails to execute the bond required by sub-section (1) the Gram Panchayat shall inform the Magistrate of the fact and the date fixed for the next hearing; and the Magistrate shall proceed as provided under sub-sections (2), (3) and (4) of section 46.

48. (1) A Gram Panchayat may on conviction :—**Punishment.**

- (a) sentence the accused to a fine not exceeding one hundred rupees or if given enhanced powers under this Act, to a fine not exceeding two hundred rupees or double the value of the damage or loss caused by his act, whichever is greater :

Provided that no fine shall exceed the maximum fine prescribed by law for that offence;

- (b) discharge him after due admonition;
- (c) require him to execute within such time as the Gram Panchayat may fix, a bond with or without sureties of an amount not exceeding one hundred rupees, binding himself that he will not be again guilty of any offence triable by the Gram Panchayat for any period not exceeding twelve months; or
- (d) where in the opinion of the Gram Panchayat, he is under eighteen years of age, require his father or his guardian to execute within such time as the Gram Panchayat may fix, a bond, with or without sureties of an amount not exceeding one hundred rupees, binding himself to prevent such offender from committing any offence triable by the Gram Panchayat for any period not exceeding twelve months.

(2) The amount of any bond taken under clauses (c) and (d) of the foregoing sub-section if forfeited, shall be recoverable by the Gram Panchayat as if it were a fine imposed by itself and if the accused or his father or his guardian, as the case may be, fails to execute such bond within the time fixed, the accused shall be punishable with fine which may extend to one hundred rupees.

(3) Where a Gram Panchayat imposes a fine under the provisions of this section and such fine is not paid as required, it shall record an order declaring the amount of fine imposed and that it has not been paid, and shall forward the same to the nearest Magistrate who shall proceed to execute it as if it were an order passed by himself, and such Magistrate may also sentence the accused to imprisonment in default of payment.

49. (1) If a fine is imposed under this Act, the Gram Compensation Panchayat may order the whole or any part of the fine to be recovered to be applied—

- (a) in defraying expenses properly incurred in the case by the complainant; and
- (b) in compensation for any material damage or loss caused by the offence committed.

(2) If the Gram Panchayat considers that a case is false or frivolous or vexatious it may call upon the complainant to show cause why he should not pay compensation to the accused. The Gram Panchayat shall record and consider any cause which the complainant may show and if it is satisfied that the case was false, frivolous or vexatious, may,

for reasons to be recorded, direct that compensation not exceeding fifty rupees shall be paid by the complainant to the accused.

Conviction by the Gram Panchayat—not previous conviction. **50.** No conviction under this Act shall be deemed to be a previous conviction for the purpose of section 75 of the Indian Penal Code, 1860, or section 562 or 565 of the Code of Criminal Procedure, 1898. XLV of 1860.
XIV of 1898.

Supervision of criminal proceedings by District Magistrate. **51.** (1) The District Magistrate, if satisfied that a failure of justice has occurred, may, of his own motion or on an application of the party aggrieved, by order in writing after notice to the accused, or the complainant, as the case may be, cancel or modify any order in a judicial proceeding made by Gram Panchayat or direct the re-trial of any criminal case by the same or any other Gram Panchayat of competent jurisdiction or by a court of competent jurisdiction subordinate to him.

(2) A fee of one rupee shall be paid on every such application.

CHAPTER V

CIVIL AND REVENUE JUDICIAL FUNCTIONS

Powers. **52.** (1) Notwithstanding any other law for the time being in force and subject to the other provisions of this Act the jurisdiction to try any of the suits mentioned hereunder shall vest in a Gram Panchayat :—

- (a) suits for the recovery of movable property or the value of such property,
- (b) suits for money or goods due on contracts, or price thereof,
- (c) suits for compensation for wrongfully taking or injuring movable property, and
- (d) suits mentioned in Clauses (j), (k), (l) and (n) of sub-section (3) of section 77 of the Punjab Tenancy Act, 1887.

XVI of 1887.

(2) The pecuniary limits of the jurisdiction of a Panchayat with enhanced powers shall be five hundred rupees in respect of suits falling under clauses (a), (b) and (c) of sub-section (1) and two hundred rupees in respect of suits falling under clause (d) of the said sub-section. The pecuniary limits of jurisdiction of other Panchayats shall be two hundred rupees in respect of suits falling under clauses (a), (b) and (c) of sub-section (1) and one hundred rupees in respect of suits falling under clause (d) of the said sub-section.

Gram Panchayat to be deemed to be civil or revenue court. **53.** (1) The Gram Panchayat when trying such suits shall be deemed to be a civil or revenue court as the case may be. Unless relinquished in part, the suit shall include the whole of the claim and no subsequent suits shall lie before the Gram Panchayat or any other court for any claim or a part thereof relinquished or omitted.

(2) No suit shall lie before a Gram Panchayat unless Limits to the defendant or one of the defendants, sought to be made jurisdiction. liable for the claim, where there are more than one at the time of the institution of the suit, resides or carries on business or personally works for gain or has within one year of the institution of the suit resided or carried on business or personally worked for gain, within the limits of its jurisdiction or the cause of action has arisen wholly or in part within these limits.

54. (1) Any other court before whom a suit triable by Transfer of a Gram Panchayat is filed shall transfer the suit to the Gram suits. Panchayat of competent jurisdiction.

(2) The District Judge or Collector may, for reasons to be recorded in writing, transfer any civil or revenue suit respectively from one Gram Panchayat to another Gram Panchayat of competent jurisdiction or to another court subordinate to him.

55. No suit shall lie in a Gram Panchayat :—

Exclusion of Gram Panchayat's jurisdiction.

- (a) on a balance of a partnership account;
- (b) for a share or part of a share under an intestacy or for a legacy or part of legacy under a will;
- (c) by or against the Central Government or a State Government or a local authority or a public servant or a Gram Panchayat or a Market Committee constituted under the Punjab Agricultural Produce Markets Act, 1939, or when any such party is, in the opinion of the Gram Panchayat, a necessary party;
- (d) by or against a minor or a person of unsound mind or when any such person is, in the opinion of the Gram Panchayat, a necessary party;
- (e) against an insolvent for a claim pertaining to the time prior to the admission of his insolvency petition ;
- (f) on account of any dispute or matter regarding which any suit or application may be made in a Revenue Court as defined in the Punjab Tenancy Act, 1887, except as provided by clause (d) of sub-section (1) of section 52;
- (g) in which the matter directly and substantially in issue is pending for decision in or has been heard and finally decided by a court of competent jurisdiction in a former suit between the same parties or those under whom they claim.

V of 1939.

XVI of 1887.

56. (1) The provisions of any law fixing a period of limitation for civil or revenue proceedings shall be deemed to be amended to the extent that the period of limitation of any suit triable by a Gram Panchayat shall not exceed three years or the period fixed in Schedule II if the claim arose before the commencement of this Act. Limitation.

(2) Any time spent on proceedings before a Gram Panchayat to which the provisions of sections 58 and 71 are applicable shall be excluded from any period of limitation prescribed by law for suits in other courts.

Institution.

57. (1) Any person who wishes to institute a suit before a Gram Panchayat shall present a petition in writing to the Sarpanch or in his absence to any Panch and shall at the same time pay the fees prescribed in Schedule II :

Provided that if the court-fee stamp is not available at the place where the Panchayat ordinarily sits, an equivalent amount in cash shall be paid.

(2) Any petition so presented shall be entered in a register of suits, to be maintained in such form and by such person as Government may prescribe.

Wrong institution of suits.

58. If at any time, it appears to the Gram Panchayat that it has no jurisdiction to try a suit it shall direct the petitioner, by order in writing, to file his suit in the proper court.

Summary dismissal.

59. If upon the face of the petition, or on examining the petitioner, a Gram Panchayat is of opinion that the petition is vexatious or frivolous or barred by limitation or discloses no cause of action, it shall dismiss the petition by order in writing.

Necessary parties in suits.

60. (1) Subject to the provisions of clauses (c) and (d) of section 55, the Gram Panchayat shall add as parties to suit any persons whose presence as parties it considers necessary for a proper decision thereof, and shall enter the names of such parties in the register of suits, and the suit shall be tried as between the parties whose names are entered in the said register :

Provided that when any party is added, notice shall be given to him and he shall be given an opportunity of appearing before the trial of the suit is proceeded with.

(2) In all cases where a new party appears under the proviso to sub-section (1) during the trial of a civil suit, he may require that the trial shall begin *de novo*.

(3) If the plaintiff or defendant in any suit dies before a case has been finally decided and the right to sue still survives, the suit shall, subject to the provision of clause (d) of section 55, be proceeded with at the instance of, or against the legal representatives of, the deceased plaintiff or the deceased defendant, as the case may be :

Provided that application in this behalf has been presented to the Gram Panchayat within thirty days of the death or within such further period as the Gram Panchayat may, for sufficient cause, allow.

Summons.

61. If a suit is not dismissed under section 59 the Gram Panchayat shall by summons require the defendant to appear before it and answer the petition.

62. (1) If the petitioner fails to appear on the date fixed for hearing or if in the opinion of the Gram Panchayat he shows negligence in prosecuting his suit, the Gram Panchayat may dismiss the suit unless the defendant admits all or any part of the claim, when it shall be decreed accordingly. Dismissal in default and restoration.

(2) A Gram Panchayat shall restore a suit dismissed for failure to appear, if within fifteen days from the date of such dismissal, or such further period which for sufficient cause the Gram Panchayat may allow, the plaintiff satisfies the Gram Panchayat that he was prevented by any sufficient cause from appearing; but no order of dismissal shall be set aside without notice to the defendant if it has been passed after his appearance before the Gram Panchayat.

A fee of one rupee shall be paid on every such application for restoration.

63. (1) If the defendant fails to appear and the Gram Panchayat is satisfied that he has received notice of the date fixed for the hearing or that he is intentionally evading service, the Gram Panchayat may proceed *ex parte*. Ex parte decision.

(2) Any defendant against whom a suit has been decided *ex parte* may, within thirty days from the date of executing any process for enforcement of the decision or within such further period as the Gram Panchayat may for sufficient cause allow, apply orally or in writing to the Gram Panchayat to set aside the order; and the Gram Panchayat, if satisfied that the defendant did not receive due notice of the hearing, or was prevented from appearing by any sufficient cause or was not intentionally evading service of summons, shall set aside the decision and shall appoint a day for proceeding with the suit, but no such order shall be passed without notice to the opposite party.

A fee of one rupee shall be paid on every such application for setting aside an *ex parte* decision.

64. (1) At the conclusion of the trial, the Gram Panchayat shall pass a decree in writing with or without costs of the suits in such form as Government may by rule prescribe and shall enter particulars of the decision in the register of suits. Final decision.

(2) If any money is paid over or if any property is transferred in the presence of Gram Panchayat in satisfaction of a decree, it shall enter the payment or the transfer in the register of suits.

(3) A decree passed by a Gram Panchayat shall be executed by it in such manner as may be prescribed. If the Gram Panchayat finds any difficulty in executing a decree, it may forward the decree to the civil or revenue court having jurisdiction and such court shall thereupon proceed to execute the decree as if it were a decree passed by itself.

Supervision. **65.** The District Judge in respect of civil suits or the Collector in respect of revenue suits may of his own motion or on an application of the party aggrieved set aside or modify any decree or order made by a Gram Panchayat in a civil or revenue suit or direct the re-trial of the suit by the same or any other Gram Panchayat of competent jurisdiction or by any other court subordinate to him if he is satisfied that there has been a failure of justice, whether on a point of fact or law.

CHAPTER VI

GENERAL PROVISIONS APPLICABLE TO JUDICIAL PROCEEDINGS

General. **66.** (1) The provisions of the Code of Criminal Procedure, 1898, the Code of Civil Procedure, 1908, and of the Indian Evidence Act, 1872, shall not apply to proceedings before Gram Panchayats, save to the extent mentioned in this Act, but the Gram Panchayat may ascertain the facts of any criminal case or civil or revenue suit by all legitimate means in its power and thereafter pass such order, sentence or decree as may be in accordance with justice, equity and good conscience.

(2) Every Gram Panchayat shall maintain a brief memorandum of proceedings of each case tried by it.

Bar to personal interests. **67.** (1) No member of a Gram Panchayat shall take part in any case, suit or proceeding to which he or his employer, employee or partner in business or near relative is a party or in which any of them may be personally interested.

(2) If by reason of the number of Panches disqualified under sub-section (1) there remains no quorum the Gram Panchayat shall send the case or the suit to the District Magistrate or the District Judge or the Collector having jurisdiction, as the case may be, for disposal in accordance with law.

Compromise and decision on oath. **68.** (1) Notwithstanding anything contained in this Act or any other law for the time being in force, it shall be lawful for the Gram Panchayat to allow any criminal case to be compounded or to decide any suit within its jurisdiction in accordance with any lawful and valid compromise agreed upon between the parties.

(2) Sections 8 to 11 of the Indian Oaths Act, 1873, shall apply to judicial proceedings before a Gram Panchayat.

Bar to legal practitioners. **69.** Notwithstanding anything contained in the Legal Practitioners Act, 1879, no legal practitioner shall be permitted to appear, plead or act before a Gram Panchayat for any party in any judicial proceedings under this Act.

Appearance of agents. **70.** (1) A woman, or any other person specially permitted by a Gram Panchayat, being a party to any judicial proceedings before it may appear through an agent authorised in this behalf.

XVIII of
1879.

(2) For the purposes of this section "agent" shall not include any legal practitioner or any person employed as a clerk to any legal practitioner or any petition-writer or a tout declared as such under section 36 of the Legal Practitioners Act, 1879.

71. If at any time it appears to a Gram Panchayat— Difficulties.

- (a) that it has no jurisdiction to try a case or a suit;
- (b) that a case or a suit is of such a nature or of such difficulties that it should be tried by another court;

it shall, by order in writing, stating therein the dates of presentation and return of the petition, direct the complainant or the petitioner, as the case may be, to present the complaint or petition to the proper court.

72. (1) The Gram Panchayat may by summons send Attendance for any person to appear and give evidence or to produce of witnesses. or cause the production of any document :

Provided that—

V of 1908.

- (a) no person who is exempt from personal appearance in court under sub-section (1) of section 133 of the Code of Civil Procedure, 1908, shall be required to appear in person before a Gram Panchayat in a civil suit;
- (b) a Gram Panchayat may refuse to summon a witness or to enforce a summons already issued against a witness, when in its opinion the attendance of the witnesses cannot be procured without an amount of delay, expense or inconvenience which in the circumstances would be unreasonable;
- (c) a Gram Panchayat shall not require any person living beyond its jurisdiction to give evidence or to produce a document unless such a sum of money be paid to him as appears to Gram Panchayat to be sufficient to defray his reasonable expenses;
- (d) no woman shall be compelled to appear as a witness in person before the Gram Panchayat; she may be examined on commission in the manner prescribed; and
- (e) if a document is produced in obedience to a summons issued under this section, the Gram Panchayat shall cause the document to be copied, mark the copy after comparing with the original to be a true copy and return the original document to the person producing the same.

(2) If any person whom the Gram Panchayat summons by written order to appear or give evidence or to produce any document before it, wilfully fails to obey such summons the Gram Panchayat may take cognizance of such disobedience and after giving such person an opportunity to explain may, on conviction, sentence him to a fine not exceeding twenty-five rupees

Processes.

73. (1) Every summons issued by a Gram Panchayat shall be drawn up in such form and shall be signed or sealed in such manner as may be prescribed.

(2) When the person on whom the summons is to be served resides within its jurisdiction such summons shall, ordinarily, be served by one of the chaukidars of the local area but the Gram Panchayat may in its discretion have it served by any other person willing to do so.

(3) If the accused, or the defendant resides at the time of the issue of the summons outside the local area of its jurisdiction the Gram Panchayat may forward the summons to the Gram Panchayat within the local area of whose jurisdiction the accused or the defendant resides and such Gram Panchayat shall cause it to be served as if it were a summons issued by itself.

(4) If the accused or the defendant resides at the time of the issue of the summons outside the Gram Panchayat area, the Gram Panchayat may, where it is not possible to serve the summons through another Gram Panchayat, forward the summons to the nearest magistrate who shall cause it to be served as if it were a summons issued by himself.

Transfer application.

74. (1) If in any criminal case or civil or revenue suit before a Gram Panchayat any party intimates at any stage before the announcement of the final order or decree that he intends to make an application under this section to the District Magistrate or the District Judge or the Collector, as the case may be, for the transfer of the case or suit, the Gram Panchayat shall, upon his executing, if so required, a bond without sureties of an amount not exceeding ten rupees, that he will make such application within a reasonable time to be fixed by the Gram Panchayat, which shall not be less than fifteen days, adjourn the case or suit for such a period as will afford sufficient time for the application to be made and an order to be obtained thereon :

Provided that nothing herein contained shall require the Gram Panchayat to adjourn the case or suit upon a second or subsequent intimation from the same party.

(2) If the application be not made within the time allowed, the amount of such bond shall be forfeited and may be recoverable by the Gram Panchayat as if it were a fine imposed by itself.

Stay of proceedings.

75. The District Magistrate or the District Judge or the Collector, as the case may be, may on an application for transfer, order the Gram Panchayat to stay the proceedings pending before it and on receipt of such order the Gram Panchayat shall stay the proceedings.

Payment by instalments.

76. The Gram Panchayat may, when imposing a fine or ordering the payment of a sum of money or the delivery of any movable property, direct that the money be paid, or the movable property be delivered, by instalments.

77. (1) A Gram Panchayat shall not be competent to Finality of cancel, revise or alter any sentence, decree or final order decision. passed by it in any judicial proceedings, except *ex parte* decrees or orders; and subject to the provisions of sections 51 and 65, no sentence, decree or other order passed by a Gram Panchayat in judicial proceedings shall be subject to appeal, or revision by any other court or authority.

V of 1908. (2) The provisions of sections 10 and 11 of the Code of *Res judicate* Civil Procedure, 1908, and section 403 of the Code of Criminal Procedure, 1898, shall apply to all civil, revenue and criminal proceedings before a Gram Panchayat.

78. Any sum realized by a Gram Panchayat by way of Custody . judicial fees or of judicial fines shall be kept in such custody money. as Government may prescribe.

V of 1898. **79.** (1) The provisions of sections 480 to 482 of the Code Contempt of of Criminal Procedure, 1898, shall apply to judicial pro- Court. ceedings under this Act :

Provided that the fine imposed for contempt of court shall not exceed twenty-five rupees.

V of 1898. (2) The provisions of sections 512, 517 and 522 of the Code of Criminal Procedure, 1898, shall apply to criminal powers. proceedings before the Gram Panchayat, and if any order made by a Panchayat in relation to sections 517 and 522 of the Code of Criminal Procedure, 1898, is not complied with, the Panchayat shall forward the same to the nearest magistrate who shall proceed to execute it as if it were an order passed by himself.

CHAPTER VII

FINANCE AND TAXATION

80. There shall be a Gram Fund, vested in each Pan- Gram Fund. chayat, which shall be utilized by the Panchayat to meet charges in connection with its duties under this Act.

81. The following moneys shall be credited to the Gram Sources of Fund :— Gram Fund.

- (a) all grants from Government or local bodies and all sums other than judicial fees and fines received by or on behalf of the Gram Panchayat under this Act, or otherwise;
- (b) the balance (if any) standing at the credit of the Panchayat at the commencement of this Act;
- (c) the balances and proceeds of all funds which in the opinion of the Collector were or are being collected for the common secular purposes of the village ;
- (d) 10 per cent. of the land revenue paid by the Gram Panchayat area to the Government; and
- (e) the balance and proceeds of Kothi Fund in Kulu Sub-Division and proceeds of Trini Tax in Kangra District.

Power of taxation.

82. (1) Subject to the prescribed rules and any orders made by Government, in this behalf, a Gram Panchayat shall impose a hearth tax or such other tax as Government may specify not exceeding such rate as may be prescribed :

Provided that if the Gram Panchayat fails to impose the tax, Government may take necessary steps to impose the tax and the tax so imposed shall be deemed to have been imposed by the Gram Panchayat.

(2) A Gram Panchayat may with the previous sanction of Government levy any other tax which the Legislature of the State has power to impose in the State under the Constitution of India.

(3) Government may at any time withdraw the sanction given under sub-section (2) and the tax shall thereupon cease to be levied.

(4) The taxes under sub-sections (1) and (2) shall be imposed, assessed and realized in such manner and paid and realized at such times as may be prescribed.

Power to exempt from taxes and write off irrecoverable amounts.

83. Subject to such restrictions and control as may be prescribed, a Gram Panchayat may write off any tax, fee or other amount whatsoever, due to it, whether under a contract or otherwise or any sum payable in connection therewith, if in its opinion such tax, fee, amount or sum is irrecoverable.

Expenses of Gram Panchayats.

84. The expenses of the Gram Panchayats shall be charged to the Gram Fund.

Recovery of arrears.

85. The Collector shall recover any sums due under this Act other than sums due under a decree passed by the Gram Panchayat in exercise of its civil jurisdiction, or as fines imposed in the exercise of its criminal jurisdiction as if they were arrears of land revenue.

Power to borrow.

86. With the sanction of Government and subject to such conditions as may be prescribed, a Gram Panchayat may borrow money for carrying out any of the purposes of this Act.

Special tax and Community service.

87. A Gram Panchayat may, with the previous permission of the Director, impose a special tax on the adult male members of the Panchayat area for the construction of any public work of general utility for the inhabitants of the said area : provided that it may exempt any member from payment of this tax in lieu of doing voluntary labour or having it done by another person on his behalf : provided further, that in the case of an emergency manual labour may be compulsorily imposed without payment.

CHAPTER VIII

THE THANA PANCHAYAT UNION

88. Government may by notification establish an advisory board to be called "The (name of Thana) Panchayat Union" hereinafter referred to as "The Union". Establishment of Union.

89. The Union shall consist of all Sarpanches of the Gram Panchayats situated within the Thana and if the Scheduled castes are not adequately represented in the Union, Government shall in accordance with such rules as may be prescribed in this behalf, nominate such number from amongst the Scheduled caste Panches so as to give to the Scheduled castes adequate representation: Constitution of Union.

Provided that in the absence of any Sarpanch of a Gram Panchayat or during the vacancy of his office, any Panch authorised by a Panchayat in his behalf shall be its representative on the Union.

90. Except in regard to judicial proceedings and subject to such rules as Government may make in this behalf it shall be the duty of the Union to advise the Gram Panchayats within the Thana in carrying out the provisions of this Act and the rules made thereunder. Duties of the Union.

91. (1) Every Union shall elect in the prescribed manner from among its members an Executive Committee. It shall also elect a Pradhan and an Uppradhan or Meet Pradhan, who will be *ex-officio* Pradhan and Uppradhan or Meet Pradhan of the Executive Committee respectively. Constitution of Executive Committee.

(2) The number of members of an Executive Committee shall be fixed by Government by general or special order.

(3) Subject to such exceptions as Government may by special or general order direct the duties of the Union shall be exercised by the Executive Committee.

92. The Executive Committee may, with the sanction of the prescribed authority, make by-laws as to— Conduct of business.

- (1) its conduct of business;
- (2) the division of duties among its members;
- (3) the appointment of sub-committees and their duties; and
- (4) other similar matters.

93. The expenses of the Union shall be charged to the Gram Fund of each Gram Panchayat in a Thana in such proportion as may be determined by the prescribed authority. Finance.

94. A member of an Executive Committee or an office-holder of the Union or the Executive Committee may resign his office by notifying his intention to do so to the Director and on such resignation being accepted by him shall be deemed to have vacated his office. Resignation.

CHAPTER IX

CONTROL

Delegation of powers.

95. (1) Government may, by notification, delegate all or any of its powers under this Act other than the power to make rules, to a Deputy Commissioner or the Director.

(2) The Director may with the previous permission of Government delegate any of his powers other than those delegated to him or specified in sections 102, 103 and sub-section (3) of section 105 to an officer not below the rank of District Panchayat Officer.

(3) The District Magistrate may delegate any of his powers to a Magistrate of the first class.

(4) The District Judge may delegate any of his powers to a Subordinate Judge of the first class.

(5) The Collector may delegate any of his powers to an Assistant Collector of the first grade.

(6) The Deputy Commissioner may delegate any of his powers of control to an officer not below the rank of an Extra Assistant Commissioner or to a District Panchayat Officer.

Access to records of Gram Panchayat.

96. (1) A Gram Panchayat shall at all reasonable times permit any officer or other person whom the Director or Deputy Commissioner may authorise in this behalf to have access to all its books, proceedings and records and to enter on and inspect any immovable property, occupied by, or any work in progress under the orders of, or any institution controlled by it.

(2) Nothing contained in sub-section (1) shall affect the right of parties to any proceedings pending before a Panchayat to inspect the records of those proceedings, in the manner prescribed.

Power to suspend the action of Gram Panchayat.

97. (1) The Deputy Commissioner may by written order suspend the execution of any resolution or order of the Gram Panchayat other than an order passed in judicial proceedings or prohibit the doing of any act which is about to be done or is being done under cover of this Act.

(2) The Deputy Commissioner shall forthwith send to the Commissioner a copy of the order with a statement of his reasons for making it, and with such explanation as the Gram Panchayat may offer, and the Commissioner may thereupon confirm, modify or rescind the order.

Control and subordination.

98. In all matters arising under this Act, and unless otherwise provided, Commissioners, Deputy Commissioners, Director and District Boards shall be subject to such authority and control as Government may direct.

Default of duties.

99. (1) If a Gram Panchayat makes default in the performance of any duty other than a judicial function imposed upon it by or under this Act, or under any other law for the

time being in force, the Deputy Commissioner may fix a period for the performance thereof, and in case of default may appoint any person to perform it and may direct that the expenses arising from, and incidental to, its performance shall be paid by the Gram Panchayat within the time fixed.

(2) If such expenses are not paid, the Deputy Commissioner may make an order directing the person having custody of the Gram Fund to make the payment in whole or in part as may be possible from such balance, and if such person does not comply with the order, recover the amount from him.

100. (1) Government may call for and examine the record of proceedings of any Gram Panchayat for the purposes of satisfying itself as to the legality or propriety of any executive order passed therein and may confirm, modify or rescind the order. Government may call for proceedings.

(2) Government may, at any time, call for and examine the record of any executive order made under this Act for the purposes of satisfying itself as to the legality and propriety of such order and may confirm, modify or rescind such order.

101. (1) Government may make rules consistent with this Act to carry out the purposes thereof and may provide that the breach of any such rule be punishable with a fine which may extend to twenty-five rupees. Power to make rules.

(2) In particular and without prejudice to the generality of the foregoing power, Government may make rules—

- (a) with reference to all matters in respect of which rules are expressly required or allowed by this Act to be made;
- (b) regulating the filling of vacancies in a Gram Panchayat, Thana Panchayat Union or Adalati Panchayat and the appointment of Panches;
- (c) regulating the procedure of election, suspension or removal of the office-holders of the Gram Panchayat, the Thana Panchayat Union and Adalati Panchayat and the settlement of election disputes;
- (d) regulating the functions and powers of the persons enumerated in clause (c) above;
- (e) regulating the exercise, by a Gram Panchayat, or Thana Panchayat Union of any of its powers under this Act and in particular the power of a Gram Panchayat to sue and to acquire, hold or transfer property and to enter into contracts;
- (f) regulating the assessment and collection of taxes, appeals against assessment and collection of taxes and the custody and proper maintenance of the Gram Fund;

- (g) regulating the custody and proper maintenance of accounts, records and registers by a Gram Panchayat and Thana Panchayat Union;
- (h) authorizing and regulating the manner in which and the agency by whom the records, registers, accounts and other proceedings of these bodies shall be inspected;
- (i) regulating the procedure of a Collector or Deputy Commissioner or the Director or Assistant Director of Panchayats while acting under this Act ;
- (j) regulating the mode of assembling the adult voters and recording their votes;
- (k) providing for the procedure of sub-committees appointed by a Gram Panchayat;
- (l) regulating the time, place, language and conduct of meetings and adjourned meetings of Gram Panchayats and sub-committees;
- (m) regulating the issue and service of processes, fees payable, scale of diet money for witnesses.

(3) All rules made under this section shall be subject to the condition of previous publication in such manner as Government may deem fit.

Suspension
and removal
of Panches,
etc.

102. (1) The Director may, during the course of an enquiry, suspend a Panch or a member of a Thana Panchayat Union for any of the reasons for which he can be removed, and debar him from taking part in any act or proceedings of the said body during that period and order him to hand over the records, money or any property of the said body to the person authorised in this behalf.

(2) Government may, after such enquiry as it may deem fit, remove any Panch—

- (a) on any of the grounds mentioned in section 5;
- (b) who refuses to act, or becomes incapable of acting, or is adjudged an insolvent;
- (c) who, without reasonable cause, absents himself for more than two consecutive months from the meetings of the Gram Panchayat, the Thana Panchayat Union or the Adalati Panchayat, as the case may be ;
- (d) who in the opinion of Government or of the officer to whom Government has delegated its power of removal, has been guilty of misconduct in the discharge of his duties;
- (e) whose continuance in office is, in the opinion of Government or of the officer to whom Government has delegated its powers of removal, undesirable in the interests of the public.

(3) A person who has been removed under sub-section (2) may be disqualified for re-election for such period not exceeding five years as Government may fix.

103. (1) If in the opinion of Government a Gram Panchayat, a Thana Panchayat Union or an Adalati Panchayat is incompetent to perform or persistently makes default in the performance of a duty imposed on it by or under this Act or exceeds or abuses its powers or should there be any other reason which in the opinion of Government necessitates the suspension or supersession of the body, Government may, by notification, suspend or supersede it.

Suspension or abolition of Gram Panchayat and Thana Panchayat Unions and consequence thereof.

(2) On the suspension or supersession of a body under sub-section (1), the following consequences shall ensue :—

- (a) all members of the body shall from the date of the notification vacate their seats ;
- (b) the funds and other property, if any, vested in the body shall be disposed of in such manner as Government may direct; and
- (c) the District Magistrate or the District Judge or the Collector, as the case may be, shall withdraw all criminal, civil and revenue cases pending before such Gram Panchayat, or Adalati Panchayat and dispose of them in accordance with law.

(3) Government may at any time establish another such body in the place of the one so suspended or superseded under this section in accordance with the provisions of this Act.

CHAPTER X

MISCELLANEOUS

104. (1) No suit or other legal proceedings in a civil or criminal court shall lie against any Panch in respect of any act done in good faith under this Act.

Bar to actions.

(2) No civil or revenue suit or proceedings shall lie against any Gram Panchayat in respect of any act done in the discharge of any of its duties imposed under this Act.

105. (1) Every member of a Gram Panchayat shall be liable for the loss, waste or misapplication of any money or property belonging to that body if such loss, waste or misapplication is a consequence of his neglect or misconduct while a member.

Liability of members.

(2) An Assistant Director of Panchayats may, on the application of a Gram Panchayat or otherwise and, after giving the member concerned an opportunity to explain, assess by order in writing the amount due from him on account of such loss, waste or misapplication.

(3) Any person aggrieved by an order made under sub-section (2) of this section may, within one month of the date of such order apply to the Director to have it set aside and the Director may suspend the execution of the order upon such terms as to costs, payment into Court or otherwise as he thinks fit; but subject to the result of such application, if any, the order shall be conclusive proof of the amount due.

(4) Notwithstanding anything contained in this section, no person shall be called upon to explain why he should not be required to make good any loss, after the expiry of four years from the occurrence of the loss, waste or misapplication, or after the expiry of one year from his ceasing to be a member whichever is earlier.

Resignation. **106.** A member of a Gram Panchayat may resign his office by notifying in writing his intention to do so to the Assistant Director of Panchayats and on such resignation being accepted shall be deemed to have vacated his office.

Expenses to be met from State Revenue. **107.** Government shall appoint a Director of Panchayats for the State as well as the staff and establishment which may be required to assist him and the salaries of the Director and such staff and establishment as well as any other expenses which Government may incur in carrying this Act into effect shall be defrayed by Government.

Suits against Panchayat or its officers. **108.** (1) No suit or legal proceeding shall be instituted against any officer or servant of a Gram Panchayat, a Thana Panchayat Union or an Adalati Panchayat or any person acting under their direction for anything done in good faith under this Act, until the expiration of two months next after a notice in writing, stating the cause of action, the name and place of abode of the intending plaintiff and the relief which he claims, has been, in the case of any aforesaid body delivered or left at its office and, in the case of any individual as aforesaid delivered to him at his office or usual place of abode; and the plaint shall contain a statement that such notice has been so delivered.

Limitation of such suits. (2) Every such suit shall be dismissed unless it is instituted withing six months from the date of the accrual of the alleged cause of action.

Penalty for tampering with the property. **109.** (1) Whoever removes, displaces or makes an alteration in or otherwise interferes with any pavement, gutter or other material of public street, or any fence, wall or post thereof or a lamp post or bracket, direction post, stand post, hydrant, or other such property of the Gram Panchayat without the written sanction of the Gram Panchayat or other lawful authority shall be punishable with fine which may extend to twenty-five rupees.

(2) If through any act, neglect or default on his part, a person has incurred a penalty imposed under sub-section (1) and has caused any damage to the property of a Gram Panchayat, the person incurring such penalty shall be liable to make good such damage as well as to pay such penalty and the damage may be recovered from the person in the prescribed manner.

Duties of Police towards Panchayat. **110.** Every police officer shall give immedaite information to the Gram Panchayat of any offence coming to his knowledge which is triable by a Panchayat, and shall assist all members and servants of the Gram Panchayat, and Thana Panchayat Union in the exercise of their lawful authority.

111. If any dispute arises between two or more Gram Panchayats or between a Gram Panchayat and a Town Committee or a Municipal Committee or a Notified Area Committee or a District Board, it shall be referred to the prescribed authority whose decision shall be final and shall not be questioned in any court of law.

112. (1) Subject to such restrictions as may be prescribed a Gram Panchayat may unite with any other body or bodies being a Gram Panchayat, local authority, institution or branch of an institution established for the development of Panchayats and recognised by Government :—

- (a) in works or undertakings which benefit the Gram Panchayat area and the areas under the jurisdiction of such other body or bodies;
- (b) in appointing from among its members and the members of such other body or bodies a joint committee for any purpose of common interest and in delegating to such committee any of its powers and in framing regulations for the proceedings of the committee;
- (c) contribute funds to any work or institution from which the area under the Gram Panchayat benefits, although such work or institution is undertaken or maintained outside that area.

(2) Any dispute arising between such bodies shall be referred for decision to Government or such officer as it may appoint in this behalf and such decision shall be final and shall not be questioned in any court of law.

113. Every Gram Panchayat shall during the months prescribed in this behalf hold in the manner prescribed general meetings of the voters of the Gram Panchayat Area twice a year in which the report of the working of the Gram Panchayat shall be presented and the future programme for the development of the village formulated.

General meeting of the voters of the Gram Panchayat Area.

SCHEDULE I-A

OFFENCES COGNIZABLE BY A GRAM PANCHAYAT

Offence	Sections
(a) Under the Indian Penal Code, 1860 (XLV of 1860)—	
Committing affray	160
Absconding to avoid service of summons or other proceeding	172
Non-attendance in obedience to an order from public servant	174
Intentionally omitting to produce a document	175
Refusing oath or affirmation when duly required by a public servant	178
Refusing to answer a public servant authorized to question	179

Offence	Sections
(a) Under the Indian Penal Code, 1860 (XLV of 1860)— <i>contd.</i>	
Refusing to sign statement	180
Disobedience to order duly promulgated by public servant	188
Intentional insult or interruption to public servant sitting in judicial proceeding	228
Negligently doing an act known to be likely to spread infection of any disease dangerous to life	270
Defiling the water of a public spring or reservoir	277
Danger of obstruction in public way or line of navigation	283
Negligent conduct with respect to any animal	289
Committing a public nuisance	290
Continuance of nuisance after injunction of discontinuance	291
Obscene songs	294
Voluntarily causing hurt	323
Voluntarily causing hurt on provocation	334
Theft or dishonestly receiving or possessing stolen property where the value of the property stolen does not exceed Rs. 50 : provided that no Gram Panchayat shall take cognizance of any such complaint if the accused—	379 & 411
(i) has been previously convicted of an offence under Chapter XII or XVII of the Indian Penal Code punishable with imprisonment of either description for a term of three years or upwards; or	
(ii) has previously been fined for theft or receiving or possessing stolen property by any Panchayat; or	
(iii) is a registered habitual offender under any law for the time being in force; or	
(iv) has been bound over to be of good behaviour in proceedings instituted under section 109 or 110 of the Code of Criminal Procedure, 1898 (V of 1898); or	
(v) has had an order of restriction passed against him under the Restriction of Habitual Offenders (Punjab) Act, 1918 (V of 1918); or	
(vi) has been previously convicted for gambling.	
Mischief when the damage or loss caused does not exceed fifty rupees in value	426
Mischief by killing or maiming animal of the value of Rs. 10	428
Mischief by killing or maiming cattle, etc., of any value or any animal of the value of Rs. 50	429
Criminal trespass	447
Misconduct in public by a drunken person	510
(b) Under the Vaccination Act, 1860 (XIII of 1860)—	
Punishment of offences	22
(c) Under the Cattle Trespass Act, 1871 (I of 1871)—	
Forcibly opposing the seizure of cattle or rescuing the same	24
Causing damage to land or crops or public roads by pigs	26

Offence	Sections
(d) Under the Punjab Primary Education Act, 1919 (X of 1919)—	
Neglect by parents to send boy to school	13
Unlawful employment of boy	14
(e) Under the Northern India Canal and Drainage Act, 1873 (VIII of 1873)—	
Offences specified in sub-section (4) of section 70	70
(f) Under the Weights and Measures Act, 1941 (XII of 1941)—	
Penalty for fraudulent use of weights	25
Penalty for selling, etc., of false or defective weight, measure, etc.	26
Penalty for sale by weight or measure other than standard weight or measure	27
Penalty for use and possession of weight, measurement, etc., not authorized	28
Penalty for giving short weight or measure	29
Penalty for use and possession of weight, etc., not verified or stamped	30
Penalty for sale or delivery of weight or measure, etc., not verified or stamped	31
Penalty for forging, etc., of weights, measures, etc.	32
Penalty for neglect or refusal to produce weight for inspection	33
(g) Under the Punjab Juvenile Smoking Act, 1918 (XII of 1918)—	
Penalty for selling tobacco to children	3
Seizure of tobacco being smoked by juvenile in a public place	4
(h) Under the Public Gambling Act, 1867 (II of 1867)—	
Penalty for owning or keeping or having charge of a gambling house	3
Penalty for being found in gambling house	4
Penalty on persons arrested for giving false names and addresses	7
(i) Under the Prevention of Cruelty to Animals Act, 1890 (XI of 1890)—	
Penalty for cruelty to animals in public places and for sale in such places of animals killed with unnecessary cruelty	3
Penalty for practising Phuka	4
Penalty for killing animals with unnecessary cruelty anywhere	5
Penalty for being in possession of the skin of a goat killed with unnecessary cruelty	5A
Presumptions as to possession of the skin of a goat	5B
Penalty for employing anywhere animals unfit for labour	6
Penalty for permitting diseased animals to go at large or to die in public places	7
(j) Under the Indian Forest Act, 1927 (XVI of 1927)—	
Acts prohibited in such forests	26 & 33
(k) Under this Act or under any rule or by-law made thereunder . . . . .	..
(l) Under the Punjab Land Preservation (Chos) Act, 1900 (Punjab Act II of 1900) as modified up to the 1st July 1944.	19

SCHEDULE I-B

Offence	Sections
Under the Indian Penal Code, 1860 (XLV of 1860)—	
Intentional omission to give information of an offence by a person legally bound to inform	202
Offences relating to Weights and Measures mentioned in Chapter XIII	264 to 267
Omitting to guard against probable danger to human life from a building over which a person has right to pull down or repair	288
Wrongfully restraining any person	341
Assault or use of criminal force otherwise than on grave provocation	352
Assault or use of criminal force on grave and sudden provocation	358
Dishonest misappropriation	403
Criminal breach of trust	406
Cheating and inducing delivery of property	420
Cheating	417
House trespass	448
Insult intended to provoke a breach of the peace	504
Punishment for criminal intimidation, etc.	506, Part I only.
Uttering any word or making any gesture intended to insult the modesty of a woman	509

SCHEDULE II

PERIOD OF LIMITATION FOR CERTAIN CLAIMS

(See Section 56)

Serial No.	Description of claim	Period of limitation	Time from which period begins to run
1	For the wages of household servant, artisan or labourer	One year	When the wages accrue due.
2	For the price of food or drink sold by a keeper of a hotel, tavern or lodging house	Ditto	When the food or drink is delivered.
3	For the price of lodging	Ditto	When the price becomes payable.

SCHEDULE III

TABLE OF FEES

Serial No.	Value of claim	Court-fee to be levied
		Rs.
1	(a) Rs. 50 or less	1
	(b) From Rs. 51 to Rs. 100	2
	(c) From Rs. 101 to Rs. 150	3
	(d) From Rs. 151 to Rs. 200	4
	(e) From Rs. 201 to Rs. 250	5
	(f) Above Rs. 250	10
2	For a complaint before the Gram Panchayat	1
3	For applications to the Gram Panchayat for execution of a decree granted by it	1
4	For a revision application	1

THE UNITED PROVINCES PANCHAYAT RAJ ACT, 1947

U. P. Act No. XXVI of 1947

An Act to establish and develop local self-government in the rural areas of the United Provinces

WHEREAS it is expedient to establish and develop local self-government in the rural areas of the United Provinces and to make better provision for village administration and development;

It is hereby enacted as follows:

CHAPTER I

PRELIMINARY

Short title,
extent and
commence-
ment.

1. (1) This Act may be called "the United Provinces Panchayat Raj Act, 1947."

(2) It shall extend to the whole of the [Uttar Pradesh] except the Jaunsar Bawar pargana of the Dehra Dun District and the portion of the Mirzapur District, south of the Kaimur Range and the area, which has been, or may hereafter be, declared as, or included in, a municipality, notified area under the provisions of the United Provinces Municipalities Act, 1916, or as a cantonment under the provisions of the Cantonments Act, 1924, or as a town area under the United Provinces Town Areas Act, 1914.

U. P. 11 of
1916.
U. P. 11 of
1924.
U. P. 11 of
1914.

(3) It shall come into force at once.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(a) "Panchayati Adalat" means a Panchayati Adalat established under section 42 and includes a bench thereof;

(b) "adult" means a person, male or female, who has completed his or her twenty-first year;

(c) "case" means a criminal proceeding in respect of an offence triable by a Panchayati Adalat;

(d) "circle" means the area within which a Panchayati Adalat exercises jurisdiction under section 42;

(e) "Collector" or "District Magistrate" or "Sub-Divisional Magistrate," with reference to a Gaon Sabha, means the Collector, District Magistrate or Sub-Divisional Magistrate of the district or the sub-division, as the case may be, in which such Gaon Sabha is constituted;

(f) "district board", with reference to a Gaon Panchayat, means a district board established under the United Provinces District Boards Act, 1922, in the district in which such Gaon Panchayat is constituted;

U. P. Act X
of 1922.

* Sub. by the Adaptation of Laws Order, 1950.

- (g) "Gaon Sabha" means a Gaon Sabha established under section 3;
- (h) "Gaon Panchayat" means the Executive Committee of the Gaon Sabha established under section 12;
- (i) "Joint electorate system" means a system under which the electors belonging to all communities vote jointly as prescribed and not as electors of separate communities;
- (j) "minority community" means Musli'm or non-Muslim community if, according to the latest Government census, the total population of such community is not more than 45 per cent. of the whole population of the area within the jurisdiction of the Gaon Sabha;
- (k) "Munsif," with reference to a Gaon panchayat, means the Munsif having local jurisdiction in the area in which such Gaon Panchayat is constituted;
- (l) "population" means the population of a village or area as determined in the manner prescribed in this behalf;
- (m) "proceeding" means a proceeding specified under section 70;
- (n) "public servant" means a public servant as defined in section 21 of the Indian Penal Code, 1860;
- (o) "public street" means any road, street, bridge, lane, square, court, alley or passage which the public has a right to pass along, and includes on either side the drains or gutters and the land up to the defined boundary of any abutting property, notwithstanding any projection over such land of any verandah or other superstructure;
- (p) "prescribed" means prescribed by this Act or rules made thereunder;
- (q) ¹["prescribed authority" means an authority to be notified as such by the State Government whether generally or for any particular purpose];
- (r) "proprietor," in respect of a village, includes an under-proprietor or a sub-proprietor as defined in clauses (15) and (16) of section 4 and a superior and an inferior proprietor as contemplated by sections 76 and 77 of the United Provinces Land Revenue Act, 1901, but does not include a person who by reason of any transfer is not entitled for the time being to receive rent or profits in respect of his share in the village and in such a case means the person who for the time being is entitled to receive such rent or profits;
- (s) "suit" means a civil suit triable by a Panchayati Adalat;
- (t) "village" means any local area, recorded as a village in the revenue records of the district in which it is situate;

Act XLV of
1860.

U. P. Act
III of 1901.

¹ Sub. by s. 2 of Act X of 1950.

- (u) "tenant" and "sub-tenant" shall bear the same meaning as assigned to them in the United Provinces Tenancy Act, 1939; U. P. Act XVII of 1939.
- (v) "public land or common land" means the land which is not in exclusive use of any individual but in common use of the villagers.

CHAPTER II

ESTABLISHMENT AND CONSTITUTION OF GAON SABHAS

Establishment and constitution of Gaon Sabhas and their Jurisdiction.

3. (1) The ¹[State] Government shall, by notification in the official *Gazette*, establish a Gaon Sabha for every village or group of villages.

(2) The ¹[State] Government shall declare the name and the territorial jurisdiction of the Gaon Sabha in the notification mentioned in sub-section (1), and may at any time by notification in the official *Gazette*, either on its own motion or of a Gaon Sabha or of the residents of any village, include any area in or exclude any area from the area of a Gaon Sabha.

(3) Where by notification under sub-section (2) any area is included in the jurisdiction of a Gaon Sabha, such area shall thereby become subject to all notifications, rules, regulations, by-laws and orders made under this or any other enactment in force in the area within the jurisdiction of the aforesaid Gaon Sabha.

Incorporation of Gaon Sabha.

4. Every Gaon Sabha shall, by the name notified in the official *Gazette* under section 3, be a body corporate having perpetual succession and a common seal and shall, subject to any restriction or condition imposed by or under this or any other Act, have power to acquire, by purchase, gift or otherwise, to hold, administer, and transfer property, both movable and immovable, and to enter into any contract and shall, by the said name, sue or be sued.

Membership of Gaon Sabha.

5. A Gaon Sabha shall consist of all adults permanently residing within the area for which the Sabha is established, but no such adult shall be entitled to be or to remain a member of a Gaon Sabha, if he—

- (a) is of unsound mind; or
- (b) is suffering from leprosy; or
- (c) is an undischarged insolvent; or
- (d) is a servant of the ¹[Government] or a local authority serving in, or is an honorary magistrate, honorary munsif or honorary assistant collector having jurisdiction over, any area of the Gaon Sabha or a part thereof; or
- (e) is convicted of an election offence; or
- (f) has been convicted for an offence involving moral turpitude or ordered to give security for good behaviour under section 110 of the Code of Criminal Procedure, 1898:

V of 1898.

¹ Sub. by the Adaptation of Laws Order, 1950.

Provided that the disqualification under clause (c) or (e) or (f) may be removed by an order of the Provincial Government or the prescribed authority.

6. A member of a Gaon Sabha shall continue to be its member until his death or until he incurs any disqualification specified in section 5 or until the area in which he resides is excluded from the jurisdiction of the Gaon Sabha under section 8; or until the abandonment of his permanent residence in the village :

Provided that a person described in section 5 who has ceased to be a member by reason of a disqualification mentioned therein or abandonment of permanent residence in the village shall, on the removal of the disqualification or the resumption of his permanent residence in the village, as the case may be, and on an application made by him to the President of the Gaon Sabha in this behalf, be, after such inquiry as may be prescribed, re-enrolled as a member thereof.

7. No disqualification, defect or omission in the enrolment of a member shall vitiate any act or proceeding of a Gaon Sabha if not less than two-thirds of the members at the time the act is done, or the proceeding taken, were duly qualified members thereof.

8. If the whole of the area of a Gaon Sabha is included in a municipality, cantonment, notified area, or town area, the Gaon Sabha shall cease and its assets and liabilities shall be disposed of in the manner prescribed. If a part of such area is so included, its jurisdiction shall be reduced by that part.

9. On the establishment of a Gaon Sabha the prescribed authority shall cause to be prepared a register, in the prescribed form, of all adult persons permanently residing within the jurisdiction of such Gaon Sabha and such register shall, among other things, contain the names of every person entitled under section 5 to be a member of the Gaon Sabha on the date of its establishment. The register so prepared shall be revised at least once a year in the manner prescribed.

10. If, in establishing a Gaon Sabha or in the working of a Gaon Panchayat, any dispute or difficulty arises regarding the interpretation of any provision of this Act or any rule made thereunder or any matter arising out of or relating to such interpretation or any matter not provided in this Act, the same shall be referred to the ¹[State] Government whose decision thereon shall be final and conclusive.

CHAPTER III

THE GAON SABHA : ITS MEETINGS AND FUNCTIONS

11. (1) Every Gaon Sabha shall hold two general meetings in each year, one soon after harvesting of the *kharif* crop (hereinafter called the *kharif* meeting) and the other soon after harvesting of the *rabi* crop (hereinafter called the *rabi* meeting):

¹ Sub. by the Adaptation of Laws Order, 1950.

Provided that the President may at any time or upon a requisition in writing of not less than one-fifth of the members shall, within 30 days from the receipt of such requisition, call an extraordinary general meeting. The time and place of all the meetings of the Gaon Sabha shall be published in the prescribed manner.

(2) For any meeting of the Gaon Sabha one-fifth of the total number of members of the Gaon Sabha shall form the quorum; provided that no quorum shall be necessary for a meeting adjourned for want of quorum.

(3) The Gaon Sabha shall elect from amongst its members a President and a Vice-President who shall respectively be called Prādhān or Sadar and Up-Prādhān or Naib-Sadar and their term of office shall be three years.

Establishment
and constitu-
tion of Gaon
Panchayat.

12. (1) As soon as may be after its establishment, every Gaon Sabha shall elect from amongst its members an Executive Committee called the Gaon Panchayat.

(2) The number of members of a Gaon Panchayat shall be between 30 and 51 as may be specified by the ¹[State] Government in addition to the President and Vice-President of the Gaon Sabha who shall also be the President and Vice-President, respectively, of the Gaon Panchayat.

(3) The term of office of a member of a Gaon Panchayat other than a President or Vice-President or a member chosen to fill a casual vacancy shall be three years ²[* * *].

(4) The area of a Gaon Sabha may be divided by the prescribed authority into such number of constituencies as may be convenient for the purpose of election :

Provided that where there is a minority community, each constituency shall be so formed as to elect at least one member of the minority.

(5) The election of the members of a Gaon Panchayat in a Gaon Sabha or in a constituency thereof shall be held on the joint electorate system.

(6) The number of seats to be assigned to the minority and non-minority communities shall be in proportion of their respective population in the area of the Gaon Sabha.

(7) Where there are any scheduled castes in the area of a Gaon Sabha, such number of seats shall be assigned to them for the first election as may be in proportion to their population in the area of such Gaon Sabha. Their representation for the subsequent elections shall be such as may be decided by the ¹[State] Legislature.

¹ Sub. by the Adaptation of Laws Order, 1950.

² Omitted by s. 3 of Act X of 1950.

13. The Gaon Sabha shall at each *khariif* meeting consider and pass the budget for the following year and at its *rabi* meeting it shall consider the accounts of the preceding year. At both meetings the Gaon Sabha shall consider the biennial reports of business submitted by the President.

Budget of
Gaon Sabha.

14. The Gaon Sabha may at any ordinary meeting remove the President or the Vice-President by a majority of two-third votes of those present. In such an event and otherwise when any vacancy occurs the Gaon Sabha shall forthwith elect another President or the Vice-President in the prescribed manner.

Removal of
President or
Vice-Presi-
dent of
Gaon Sabha
and filling
vacancies
so caused.

CHAPTER IV

POWERS, DUTIES, FUNCTIONS AND ADMINISTRATION OF GAON PANCHAYATS

15. It shall be the duty of every Gaon Panchayat so far as its funds may allow to make reasonable provision within its jurisdiction for—

Duties and
functions.

- (a) construction, repair, maintenance, cleansing and lighting of public streets;
- (b) medical relief;
- (c) sanitation and taking curative and preventive measures to remove and to stop the spread of an epidemic;
- (d) upkeep, protection and supervision of any buildings or other property which may belong to the Gaon Sabha or which may be transferred to it for management;
- (e) registering births, deaths and marriages, and maintenance of the register mentioned in section 9;
- (f) removal of encroachments on public streets, public places and property vested in the Gaon Sabha;
- (g) regulating places for the disposal of the dead bodies of human beings and animals and of other offensive matter;
- (h) regulation of *melas*, markets and *hats* within its area, except those managed by the ¹[State] Government and without prejudice to the provisions of the United Provinces Melas Act, 1938;
- (i) establishing and maintaining primary schools for boys and girls;
- (j) establishment, management and care of common grazing grounds, and land for the common benefit of the persons residing within its jurisdiction;
- (k) construction, repair and maintenance of public wells, tanks and ponds for the supply of water for drinking, washing and bathing purposes, and regulation of sources of water supply for drinking purposes;
- (l) regulating the construction of a new building or the extension or alteration of any existing building;
- (m) assisting the development of agriculture, commerce and industry;

U.P. Act
XVI of 1938.

¹ Sub. by the Adaptation of Laws Order, 1950.

- (n) rendering assistance in extinguishing fire and protecting life and property when fire occurs;
- (o) the administration of civil and criminal justice and the election of Panches on the panel of the Panchayati Adalat according to the provisions of this Act and rules made thereunder;
- (p) the maintenance of such records relating to cattle census, population census and other statistics as may be prescribed;
- (q) maternity and child welfare;
- (r) allotment of places for storing manure;
- (s) fulfilling any other obligation imposed by any other law on a Gaon Sabha;
- (t) in the hill patties of the Kumaun Division the maintenance and control of Class II and Kaisar-i-Hind forest, waste (*benap*) water channels and drinking place (*panghat*).

Discretionary functions. 16. A Gaon Panchayat may also make provision within its jurisdiction for—

- (a) planting and maintaining trees at the sides of public streets and in other public places;
- (b) the improved breeding and medical treatment of cattle and prevention of disease in them;
- (c) filling in of insanitary depressions and levelling of land;
- (d) organizing, subject to rules prescribed, a village volunteer force for watch and ward, for assisting Gaon Panchayat and Panchayati Adalat in the discharge of their functions and for the service of summons and notices issued by them;
- (e) assisting and advising agriculturists in the obtaining and distribution among them of Government loans and in the repayment thereof, in the liquidation of old debt and generally in the establishment of sound credit system according to law;
- (f) development of co-operation and establishment of improved seed and implement stores;
- (g) relief against famine or other calamity;
- (h) making representation to the district board for performance by it of such functions in relation to the area within the jurisdiction of the Gaon Sabha as is beyond the powers of the Gaon Sabha;
- (i) extension of the *abadi*;
- (j) establishment and maintenance of a library or reading room;
- (k) establishment and maintenance of an *akhara* or club or other place for recreation and games;
- (l) regulating the collection, removal and disposal of manure and sweepings;
- (m) prohibiting or regulating the curing, tanning, and dyeing of skins within 220 yards of the *abadi*;

- (n) setting up organizations to promote goodwill and social harmony between different communities ;
- (o) public radio sets and gramophones;
- (p) any other measure of public utility calculated to promote the moral and material well-being or convenience of the villagers;
- (q) with the previous sanction of the district board the doing of anything which falls within the functions of the district board for the benefit of the persons living within the jurisdiction of the Gaon Sabha; and
- (r) the doing of anything the expenditure on which is declared by the ¹[State] Government; or by the prescribed authority with the sanction of the ¹[State] Government to be an appropriate charge on the fund of the Gaon Sabha.

VIII of
1873.

17. A Gaon Panchayat shall have control of all public streets, waterways, other than canals as defined in sub-section (1) of section 3 of the Northern India Canal and Drainage Act, 1873, situate within its jurisdiction not being a private street or waterways and not being under the control of the ¹[State] Government or the district board or any other authority specified by the ¹[State] Government and may do all things necessary for the maintenance and repair thereof, and may—

Power of
Gaon pan-
chayats as
to public
streets,
waterways
and other
matters.

VIII of
1873.

- (a) construct new bridges or culverts;
- (b) divert, discontinue, or close any public street, culvert or bridge;
- (c) widen, open, enlarge or otherwise improve any public street, culvert or bridge with minimum damage to the neighbouring fields;
- (d) deepen or otherwise improve waterways;
- (e) with the sanction of the prescribed authority and where a canal exists under the Northern India Canal and Drainage Act, 1873, with the sanction also of such officer of the Irrigation Department as the ¹[State] Government may prescribe, undertake small irrigation projects;
- (f) cut any hedge or branch of any tree projecting on a public street;
- (g) notify the setting apart of any public watercourse for drinking or culinary purposes, and prohibit bathing, washing of clothes and animals or doing of other acts likely to pollute the course so set apart :

VIII of
1873.

Provided that nothing shall be done under clause (g) which may affect a canal governed by the Northern India Canal and Drainage Act, 1873, without the prior permission of the authority prescribed by the ¹[State] Government in this behalf.

¹ Sub by the Adaptation of Laws Order, 1950.

Improvement
of sanitation.

18. For the improvement of sanitation, a Gaon Panchayat may, by notice, direct the owner or occupier of any land or building, taking into consideration his financial position and giving him reasonable time for compliance thereof—

- (a) to close, remove, alter, repair, cleanse, disinfect or put in good order any latrine, urinal, water-closet, drain, cesspool or other receptacle for filth, sullage-water, rubbish or refuse pertaining to such land or building or to remove or alter any door or trap or construct any drain for any such latrine, urinal or water-closet which opens on to a street or drain, or to shut off such latrine, urinal or water-closet by a sufficient roof and wall or fence from the view of persons passing by or dwelling in the neighbourhood;
- (b) to cleanse, repair, cover, fill up, drain off, deepen, or to remove water from a private well, tank, reservoir, pool, pit, depression or excavation therein which may appear to the Gaon Panchayat to be injurious to health or offensive to the neighbourhood;
- (c) to clear off any vegetation, undergrowth, prickly pear or scrub-jungle;
- (d) to remove any dirt, dung, night-soil, manure or any noxious or offensive matter therefrom and to cleanse the land or building :

Provided that a person on whom a notice under clause (b) is served may, within 30 days of the receipt of the notice appeal to the District Medical Officer of Health against the said notice who may vary, set aside or confirm it.

Maintenance
and improve-
ment of
schools and
hospitals.

19. (1) A Gaon Panchayat—

- (a) shall subject to such rules as may be prescribed regarding the curriculum, employment and qualification of teachers and supervision of a school, maintain any existing primary school including the buildings and furniture thereof and be responsible for its proper working and may similarly establish and maintain a new school or improve any existing school;
- (b) shall, subject to such rules as may be prescribed regarding the establishment, maintenance and supervision, maintain any existing Ayurvedic or Unani hospital or dispensary including the building and equipments thereof and may similarly establish and maintain a new hospital or dispensary for one or more of the systems of medicine mentioned above.

(2) The district board and the ¹[State] Government shall make such grants for such school, hospital or dispensary, as may be prescribed.

20. Where a group of neighbouring Gaon Sabhas have no primary school or Ayurvedic or Unani hospital or dispensary the Gaon Panchayats thereof shall, if so directed by the prescribed authority, combine to establish and maintain such a school, hospital or dispensary, and it shall be managed and financed in the manner prescribed. The ¹[State] Government and the district board shall make such grants for such school, hospital or dispensary as may be prescribed.

Establishment of primary school and hospital or dispensary for a group of Gaon Sabhas.

21. A Gaon Panchayat shall, if so prescribed by the ¹[State] Government and so far as practicable, assist any Government servant in the performance of his duties within its area.

Assistance to Government servants.

22. A Gaon Panchayat may make to the proper authority—

- (a) any representation concerning the welfare of the persons residing within its jurisdiction; and
- (b) any recommendations as to the appointment, transfer or dismissal of a patrol of the irrigation department, patwari or mukhia serving in any area within the jurisdiction of such Gaon Panchayat.

Representations and recommendations by Gaon Panchayats.

23. On receiving a complaint from any person, residing within the jurisdiction of a Gaon Panchayat about any misconduct in the discharge of their official duties by any amin, process server, vaccinator, constable, patwari, patrol of the Irrigation Department or peon of any Government Department, such Panchayat may, if there be *prima facie* evidence, forward the complaint to the proper authority with its own report. The authority shall, after such further enquiry as may be required, take suitable action and inform the Gaon Panchayat of the result.

Power to enquire and report about the misconduct of certain officials.

24. A Gaon Panchayat may, as prescribed and in respect of any area within its jurisdiction, enter into a contract—

- (a) with the ¹[State] Government to collect any taxes or dues payable to the ¹[Government] on being allowed by the ¹[State] Government such collection charges as may be prescribed; or
- (b) with all or any of the proprietors to collect rent on his or their behalf on being allowed by the proprietor or proprietors such collection charges as may be prescribed.

Power to contract for collection of taxes and other dues for proprietors.

25. (1) A Gaon Panchayat ²[may] propose to the prescribed authority the staff ²[other than the Secretary], whole-time or part-time, it proposes to employ, the salaries and allowances, if any, to be paid to them and the duties to be assigned to each one of them. The prescribed authority may, as prescribed, approve, modify or reject the proposal. The Gaon Panchayat may then appoint the staff in accordance with the scheme as approved by the prescribed authority.

¹ Sub. by the Adaptation of Laws Order, 1950.

² Sub. and ins. by s. 4 of Act X of 1950.

(2) A Gaon Panchayat may, subject to the approval of the prescribed authority, make any change in the scheme aforesaid.

(3) Notwithstanding anything in sub-section (1), a Gaon Panchayat may, in case of an emergency, appoint a servant without the sanction of the prescribed authority for a period not exceeding three months.

(4) The power of appointment, discharge or dismissal of a servant of a Gaon Panchayat shall be exercised by the Panchayat but the power of punishment, disciplinary action or promotion may be delegated to such officer of the Panchayat as may be prescribed; provided that an appeal from the order of such officer shall lie to the Gaon Panchayat in the manner prescribed.

Appointment, leave and dismissal, etc., of Secretary.

¹[25-A. (1) Subject to such directions as the State Government may give, there shall be appointed by such authority as may be prescribed a Secretary for every Gaon Panchayat or a group of Gaon Panchayats. The Secretary so appointed shall also be *ex-officio* Secretary of the Gaon Sabha or Gaon Sabhas concerned.

(2) The Secretary shall, in the matter of leave, promotion, transfer, dismissal, removal and other disciplinary action be under the administrative control of the prescribed authority aforesaid which shall exercise its powers and functions in the manner prescribed :

Provided that an order of the prescribed authority removing or dismissing a Secretary shall be appealable within a period and in the manner, to be prescribed, to the District Magistrate, or if any other authority is prescribed in this behalf to such other authority.]

Right of individual members.

26. A member of a Gaon Panchayat may, at any meeting, move any resolution and put question to the President or Vice-President on matters connected with the administration of the Gaon Panchayat in the manner prescribed.

Penalty for causing loss, waste, or misapplication of money or property of the Gaon Panchayat.

27. (1) Every member of the Gaon Panchayat, any joint committee or any other committee constituted under this Act shall be liable for the loss, waste or misapplication of any money or property belonging to the Gaon Panchayat, if such loss, waste or misapplication is a direct consequence of his neglect or misconduct, while a member of the Gaon Panchayat, joint committee or other committee, and a suit for compensation may be instituted against him by the Gaon Panchayat with the previous sanction of the prescribed authority.

(2) If the prescribed authority sanctions the institution of a suit under sub-section (1), or refuses to grant the sanction, the member concerned, or the Gaon Panchayat, as the case may be, may, within 30 days of such sanction or refusal, appeal to the ²[State] Government or an appellate prescribed authority against the said sanction or refusal.

¹ Ins. by s. 5 of Act X of 1950.

² Sub. by the Adaptation of Laws Order, 1950.

(3) The ¹[State] Government may institute a suit mentioned in sub-section (1) on its own initiative.

XLV of
1860.

28. Every member or servant of a Panchayati Adalat, a Gaon Panchayat, a joint committee or any other committee constituted under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code. Member and servants to be public servants.

29. Subject to the prescribed conditions, a Gaon Panchayat may establish a committee to assist it in the discharge of any specified duty or class of duties and may delegate to such committee such of its powers as may be necessary for the purpose of rendering such assistance. Committee.

30. (1) Subject to such rules as may be prescribed, two or more Gaon Sabhas may combine by means of a written instrument to appoint a joint committee consisting of their representatives, for the purpose of transacting any business in which they are jointly interested and may— Joint Committee.

(a) delegate to such committee power, with such conditions as they may think proper to impose, to frame any scheme binding on each such Gaon Sabha as to the construction and maintenance of any joint work and as to the power which may be exercised by any such Sabha in relation to such scheme; and

(b) frame or modify rules regarding the continuation of such committee and the term of office of members thereof and the method of conducting proceedings and correspondence.

(2) If any difference of opinion arises, between the Gaon Sabhas acting under this section, it shall be referred to the prescribed authority whose decision thereon shall be final.

31. All the duties, powers and functions of the Gaon Sabha except those specified in Chapter III and sections 30 and 114 shall be exercised, performed or discharged by the Gaon Panchayat and not otherwise. Delegation.

32. (1) Vested in each Gaon Sabha there shall be a Gaon Fund which shall be utilized by the Gaon Panchayat or subject to the provisions of the budget passed under section 13, to meet charges in connection with its duties under this Act. Gaon Fund

(2) The following shall be credited to the Gaon Fund:

(a) The proceeds of any tax imposed under this Act.

(b) All sums handed over by the ¹[State] Government to the Gaon Sabha.

(c) The balance, if any, standing to the credit of the village panchayat previously in existence under the "Village Panchayat Act."

(d) All sums ordered by a court to be placed to the credit of the Gaon Fund.

¹ Sub. by the Adaptation of Laws Order, 1950,

- (e) All sums received under section 104.
 - (f) The sale-proceeds of all dust, dirt, dung or refuse including the dead bodies of animals, collected by the servants of the Gaon Panchayat.
 - (g) Such portion of the rent or other proceeds of nazul property as the ¹[State] Government may direct to be placed to the credit of the Gaon Fund.
 - (h) Sums contributed to the Gaon Fund by any district board or other local authority.
 - (i) All sums received by way of loan or gift.
 - (j) Such other sums as may be assigned to the Gaon Fund by any special or general order of the ¹[State] Government.
 - (k) All sums received by the Gaon Panchayat from any individual or corporation or the ¹[State] Government under section 24 or any other law.
- (3) Nothing in this section shall affect any obligation of a Gaon Sabha arising from a trust legally imposed upon or accepted by it.

CHAPTER V

ACQUISITION OF LAND, GAON FUND AND PROPERTY

Power to
acquire
land.

33. Where a Gaon Sabha or a number of Gaon Sabhas which have combined under the provisions of section 20 or 30 require any land to carry out any purpose of this Act, it or they shall first try to have the land by private negotiation and if the parties concerned fail to arrive at an agreement, such Gaon Sabha or Gaon Sabhas may make an application in the prescribed form to the Collector to acquire the land and the Collector may acquire such land for such Gaon Sabha or Gaon Sabhas.

Explanation.—In this chapter the expression “land” includes benefits to arise out of land, and things attached to the earth or permanently fastened to anything attached to the earth.

Property
vested in
the Gaon
Sabha.

34. (1) Subject to any special reservation made by the ¹[State] Government, all public property situated within the jurisdiction of a Gaon Sabha shall vest in and belong to the Gaon Sabha and shall, with all other property which may become vested in the Gaon Sabha, be under its direction, management and control.

(2) All markets and fairs or such portion thereof as are held upon public land shall be managed and regulated by the Gaon Panchayat and the Gaon Sabha shall receive to the credit of the Gaon Fund all dues levied or imposed in respect thereof.

Disposal of
claims.

35. Where any dispute arises as regards the ownership of any property mentioned in section 34 between a Gaon Sabha and any person, the Gaon Panchayat shall give such

¹ Sub. by the Adaptation of Laws Order, 1950.

persons a reasonable opportunity of being heard and then decide whether to treat the said property as the property of the Gaon Sabha.

36. With the sanction of the prescribed authority and Power to subject to such conditions as may be prescribed, a Gaon borrow. Sabha may borrow money from the ¹[State] Government to carry out any of the purposes of this Act.

37. Subject to the prescribed rules and any orders made Taxes which by the ¹[State] Government in this behalf, a Gaon Sabha may be im- may impose the following taxes: posed.

(a) A tax on the rent payable under the provisions of the U. P. Tenancy Act, 1939, not exceeding one anna in a rupee of such rent, the tax aforesaid being payable by the person or persons severally or jointly in cultivatory possession of such land or in receipt of *sayar* income therefrom :

U. P. Act
XVII of
1939.

Provided that if any land is cultivated by a sub-tenant of *sir* or other land, the amount imposed under this clause shall be payable by such sub-tenant and the *sir* holder or the tenant-in-chief, as the case may be, in the proportion of three-fourths and one-fourth, respectively.

(b) A tax on rent received by any proprietor or under-proprietor on account of land as defined in section 3 of the U. P. Tenancy Act, 1939, not exceeding six pies in a rupee of such rent, the tax aforesaid being payable by the person or persons severally or jointly recorded in proprietary or under-proprietary possession of such land in accordance with the provisions of section 32 of the United Provinces Land Revenue Act 1901.

U. P. Act
XVII of
1939.

U. P. Act
III of 1901.

(c) A tax upon the assumed rental value of *sir* and *khudkashi* and calculated in accordance with the proviso of section 63-D of the United Provinces Land Revenue Act, 1901, the tax aforesaid being payable by the person or persons severally or jointly recorded in proprietary or under-proprietary possession of the *sir* land in accordance with section 32 of the United Provinces Land Revenue Act, 1901, at a rate not exceeding one anna in a rupee.

U. P. Act
III of 1901.

U. P. Act
III of 1901.

(d) A tax on trade, callings and professions, not exceeding such rate as may be prescribed.

(e) A tax on buildings owned by persons who do not pay any of the aforesaid taxes not exceeding such rate as may be prescribed.

(2) A tax under clauses (a), (b) or (c) of sub-section (1) shall not be imposed alone, and if a tax under any one of the aforesaid three clauses is imposed, a tax under the other

¹ Sub. by the Adaptation of Laws Order, 1950.

two clauses shall also be imposed and the rates imposed under all three clauses shall bear to one another the same ratio as the maximum rates prescribed therein bear to one another.

Example.—If a Gaon Sabha impose a tax under clauses (a) and (c) of sub-section (1) at the rate of one-half anna in the rupee, a tax at the rate of one-quarter anna of the rent payable to the proprietors shall be imposed under clause (b) of the said sub-section.

(3) The taxes under sub-section (1) shall be imposed, assessed and realized in such manner and paid or realized at such times as may be prescribed.

Realization
of dues,
custody of
funds and
accounts.

38. The Gaon Panchayat shall, as prescribed, arrange for the realization of panchayat taxes and dues, custody of its funds and maintenance of accounts.

39. (1) The expenses of the Panchayati Adalat shall be charged to the Gaon Fund of each unit in a circle in equal proportion.

(2) All sums realized by way of court-fees in any case, suit, or proceeding or by way of fine in cases tried and disposed of by a Panchayati Adalat shall be handed over by the ¹[State] Government to the Gaon Sabhas situated within the jurisdiction of the Panchayati Adalat in equal proportion.

Audit.

40. The accounts of every Gaon Sabha shall be audited every year as prescribed.

Budget.

41. (1) (a) Every Gaon Panchayat shall prepare and lay before the *kharif* meeting of the Gaon Sabha a budget estimate of its income and expenditure for the year commencing on the 1st day of April next following.

(b) Every Gaon Panchayat shall prepare and lay before the *rabi* meeting of the Gaon Sabha its report including the account of its actual and expected receipts and expenditure for the year ending on the 31st March last preceding such meeting.

(2) The Gaon Sabha may pass or refer back to the Gaon Panchayat the budget submitted to it for re-consideration with such direction as it may give in the manner prescribed and may likewise pass a recommendatory resolution in respect of the report or of any other matter.

(3) If the budget is referred to the Gaon Panchayat for re-consideration as aforesaid, the President shall call an extraordinary meeting of the Gaon Sabha to be held within a fortnight of the said annual meeting and the Gaon Panchayat shall re-submit the budget at the said meeting with

¹ Sub. by the Adaptation of Laws Order, 1950.

such modifications as may be necessary in the light of the directions of the Sabha, and the Gaon Sabha shall then pass the budget in the manner prescribed.

Subject to rules made in this behalf, the budget shall take effect after it has been approved by the prescribed authority, and a Gaon Panchayat may incur any expenditure under any of the heads of the budget in excess of the amount approved under that head without variation or alteration of the budget with the approval of the prescribed authority.

CHAPTER VI

THE PANCHAYATI ADALAT

42. The ¹[State] Government or the prescribed authority shall divide a district into circles, each circle comprising as many areas subject to the jurisdiction of Gaon Sabhas as may be expedient, and establish Panchayati Adalats for each such circle : Circle for panchayati Adalat.

Provided that the areas of Gaon Sabhas within each circle shall, as far as possible, be contiguous.

43. Every Gaon Sabha in a circle shall elect five adults of prescribed qualification permanently residing within its jurisdiction to act as Panches in the Panchayati Adalat of that circle. The Panches so elected by all the Gaon Sabhas in a circle shall form a panel. Constitution of Panchayati Adalat.

44. All the Panches elected under section 43 shall elect from among themselves a person who is able to record proceedings and to act as Sarpanch of the Panchayati Adalat : Election of Sarpanch.

Provided that any dispute arising out of such election shall be referred to the prescribed authority whose decision shall ²[subject to revision by the State Government] be final and shall not be questioned in any court of law.

45. The term of office of every Panch shall be three years from the date of his election. Term of panchayati Adalat.

46. Every Panch elected under section 43 shall, as soon as possible after his election, take oath of office in the manner prescribed. Oath of office.

47. A Panch may submit the resignation of his office to the prescribed authority. Resignation.

48. (1) A Panch may be removed at any time by the prescribed authority in the manner and for the reasons prescribed. Removal.

(2) A Panch removed under sub-section (1) shall not be entitled to re-election as a Panch for a period of three years.

¹ Sub. by the Adaptation of Laws Order, 1950.

² Ins. by s. 6 of Act X of 1950.

49. (1) The Sarpanch shall, for the trial of every case, suit or proceeding, form a bench of five Panches from the panel; provided that at least one of the Panches in the bench shall be a person who is able to record evidence and proceedings.

(2) Every such bench shall include one Panch who resides in the area of the Gaon Sabha in which the plaintiff of a suit or proceeding or the complainant of a case resides and likewise one Panch residing in the area of the Gaon Sabha in which the defendant or the accused resides, and three Panches residing in the area of the Gaon Sabha in which neither party resides; provided that in police cases one Panch shall be such as may be residing in the area of the Gaon Sabha in which the offence was committed, one Panch residing in the area of Gaon Sabha in which the accused resides and three Panches residing in the areas other than those mentioned above.

(3) No Panch or Sarpanch shall take part in any case, suit or proceeding to which he or any near relation, employer, employee or partner in business of his is a party or in which any of them may be personally interested.

(4) Notwithstanding anything contained in this section the [State] Government may, by rules prescribe the constitution of special benches for determining any dispute arising between any parties or Gaon Sabhas of different circles or for any other purpose.

Filling of
casual
vacancies.

50. If a vacancy in the office of a Panch arises by reason of his death, removal or resignation, it shall be filled for the unexpired portion of his term in the manner provided in section 43 and if the Panch vacating the office was a Sarpanch, he shall be elected in the manner provided in section 44.

Territorial
jurisdiction.

51. (1) Notwithstanding anything contained in the Criminal Procedure Code, 1898, every case instituted under V of 1898. this Act, shall be instituted before the Sarpanch of the Panchayati Adalat of the circle in which the offence is committed.

(2) Notwithstanding anything contained in the Civil Procedure Code, 1908, every suit instituted under this Act shall V of 1908. be instituted before the Sarpanch of the Panchayati Adalat of the circle in which the defendant or any of the defendants, where they are more than one, ordinarily resides or carries on business at the time of the institution of the suit irrespective of the place where the cause of action arose.

(3) Notwithstanding anything contained in the United U. P. Act Provinces Land Revenue Act, 1901, every proceeding speci- III of 1901. fied under section 70 shall be transferred by the Tahsildar to the Panchayati Adalat within the local area of which the land concerned is situated and the Panchayati Adalat shall decide such proceedings in the manner prescribed :

¹ Sub. by the Adaptation of Laws Order, 1950.

Provided that where land included in the local area of more than one Panchayati Adalat is concerned, that Panchayati Adalat shall have jurisdiction in which the recorded tenant or proprietor ordinarily resided; or if he resided in none, the Tahsildar shall refer the proceedings to the Panchayati Adalat within the area of which the greater part of the land is situated.

52. (1) Offences under the following sections, if committed within the jurisdiction of a Panchayati Adalat as well as abetments of and attempts to commit such offences shall be cognizable by such Panchayati Adalat:

- (a) Sections 140, 160, 172, 174, 179, 277, 279, 283, 285, 286, 289, 290, 294, 323, 334, 336, 341, 352, 356, 357, 358, 374, 379, 403, 411 (where the value of the stolen or misappropriated property as far as sections 379, 403 and 411 are concerned, does not exceed fifty rupees), 426, 428, 430, 447, 448, 504, 506, 509, 599 and 510 of the Indian Penal Code, 1860;
- XI.V of 1860.
I of 1871.
U. P. Act of 1926.
- (b) Sections 20 to 24 of the Cattle Trespass Act, 1871;
- (c) Sub-section (1) of section 10 of the United Provinces District Boards Primary Education Act, 1926;
- (d) An offence under this Act or any rule made thereunder;
- (e) Any offence under sections 3, 4 and 7 of the Public Gambling Act, 1867;
- III of 1867.
- (f) Any other offence under any other enactment, declared by the ¹[State] Government to be cognizable by a Panchayati Adalat.
- (2) Any case relating to an offence under sections 143, 145, 151 or 153 of the Indian Penal Code, 1860, pending before any court may be transferred for trial to the Panchayati Adalat, if in the opinion of such court the offence is not serious.
- XIV of 1860.

53. (1) Whenever the Sarpanch of a Panchayati Adalat has reason to apprehend that any person is likely to commit a breach of peace or disturb public tranquillity, he may call upon such person to show cause why he should not execute a bond for an amount not exceeding Rs. 100 with or without sureties for keeping the peace for a period not exceeding 15 days.

Security for keeping the peace.

(2) The Sarpanch shall, after issue of such notice, constitute within three days a Bench to deal with the matter; provided that at least one Panch of the Bench shall belong to the Gaon Sabha in which such person resides.

The Bench may either confirm the order or discharge the notice after hearing such person and such witnesses as he may desire to produce.

54. (1) No Panchayati Adalat shall inflict a substantive sentence of imprisonment. Penalties.

¹ Sub. by the Adaptation of Laws Order, 1950.

(2) A Panchayati Adalat may impose a fine not exceeding one hundred rupees but no imprisonment may be awarded in default of payment.

Cognizance of suits.

55. No court shall take cognizance of any case or suit which is cognizable under the Act, by a Panchayati Adalat unless an order has been passed by a sub-divisional magistrate or munsif under section 85.

Transfer of criminal proceedings to the Panchayati Adalat in certain cases.

56. If at any stage of proceedings in a criminal case pending before a magistrate it appears that the case is triable by a Panchayati Adalat, he shall at once transfer the case to that Panchayati Adalat, which shall try the case *de novo*.

Summary dismissal of complaint.

57. Panchayati Adalat may dismiss any complaint if after examining complainant and taking such evidence as he produces it is satisfied that the complaint is frivolous, vexatious or untrue.

Return of complaint.

58. If at any time it appears to a Panchayati Adalat—

- (a) that it has no jurisdiction to try any case before it, or
- (b) that the offence is one for which it cannot award adequate punishment, or
- (c) that the case is of such nature or complexity that it should be tried by a regular court; it shall return the complaint to the complainant directing him to file it before the Sub-Divisional Magistrate, having jurisdiction to try such case.

Certain persons not to be tried by the Panchayat.

59. No Panchayati Adalat shall take cognizance of any offence in which the accused—

- (a) has been previously convicted of an offence with imprisonment of either description for a term of three years or more, or
- (b) has been previously fined for theft by any Panchayati Adalat, or
- (c) is a registered member of a criminal tribe, under section 4 of the Criminal Tribes Act, 1911, or
- (d) has been bound over to be of good behaviour under section 109 or 110 of the Code of Criminal Procedure, 1898, or
- (e) has been previously convicted for gambling.

III of 1911.

V of 1898.

Compensation to complainants.

60. In imposing any fine the Panchayati Adalat may order any portion or the whole of the fine recovered to be applied—

- (a) in defraying the expenses properly incurred in the case by the complainant, and
- (b) in compensation for any material damage or loss caused by the offence committed.

61. If a Panchayati Adalat is satisfied after enquiry that a case brought before it was false, frivolous or vexatious, it may order the complainant to pay to the accused such compensation not exceeding five rupees as it thinks fit. Compensation to the accused.

62. The powers under section 4 of the United Provinces First Offenders Probation Act, 1938, may be exercised by a Panchayati Adalat. Release of offenders on probation.

63. A Magistrate may direct an inquiry to be made under section 202 of the Code of Criminal Procedure, 1898, by a Panchayati Adalat in any case in which the offence committed within the territorial jurisdiction of such Panchayati Adalat and the Panchayati Adalat shall inquire into the case and submit its report to the said Magistrate. Enquiry in cases forwarded by magistrates.

64. The jurisdiction of a Panchayati Adalat shall extend to any suit of the following description if its value does not exceed one hundred rupees : Extent of jurisdiction.

- (a) a suit for money due on contract, other than a contract in respect of immovable property ;
- (b) a suit for the recovery of movable property or for the value thereof ;
- (c) a suit for compensation for wrongfully taking or injuring a movable property ; and
- (d) a suit for damages caused by cattle trespass ;

The ¹[State] Government or the prescribed authority may, by notification in the official *Gazette*, direct that the jurisdiction of any Panchayati Adalat shall extend to all such suits of such value not exceeding five hundred rupees as may be specified in the notification.

65. Parties to a suit may, by a written agreement, refer any suit of the nature mentioned in section 82 to a Panchayati Adalat for decision by it irrespective of the value of the suit, and the Panchayati Adalat shall, subject to rules prescribed, determine and dispose of such suit under this Act. Extension of jurisdiction by agreement of Parties.

66. Panchayati Adalat shall have no jurisdiction to take cognizance of the following suits : Exclusion of Panchayati Adalat's jurisdiction.

- (1) a suit for a balance of partnership account, unless the balance has been struck by the parties or their agents ;
- (2) a suit for a share or part of a share under an intestacy or for a legacy or part of a legacy under a will ;
- (3) a suit by or against the ¹[Government] or a public servant for acts done in his official capacity ;
- (4) a suit by or against a minor or a person of unsound mind ;

67. A suit cognizable by a revenue court under the United Provinces Tenancy Act, 1939 ; U. P. Act XVI of 1939.

¹ Sub. by the Adaptation of Laws Order, 1950.

- (6) a suit the cognizance of which by a Panchayat established under the United Provinces Village Panchayat Act, 1920, is barred by section 28 of 1920. the United Provinces Agriculturists and Workmen's Debt Redemption Act, 1939. U. P. Act XIII of 1939.

Suits to include the whole claim.

67. (1) Every suit instituted before a Panchayati Adalat shall include the whole of the claim which the plaintiff is entitled to make in respect of the matter in dispute, but he may relinquish any portion of his claim in order to bring the suit within the jurisdiction of the Panchayati Adalat.

(2) If a plaintiff omits to sue in respect of or relinquishes any portion of it, he shall not afterwards sue in respect of the portions so omitted or relinquished.

Limitations.

68. Every suit instituted before a Panchayati Adalat after the period of limitation prescribed therefor in the schedule shall be dismissed, even though limitation has not been set up as a defence.

Effect of the decision by Panchayati Adalat.

69. The decision of a Panchayati Adalat on the question of title, legal character, contract or obligation shall not bind the parties except in respect of the suit in which such matter is decided.

Proceedings under the U.P. Land Revenue Act.

70. All disputed proceedings under sections 33, 34, 35, 39, 40 and 41 of the U. P. Land Revenue Act, 1901, shall be transferred by the Tahsildar to the Panchayati Adalat, if any, having jurisdiction: III of 1901.

Provided that the whole of the property involved is within the jurisdiction of the Panchayati Adalat:

Provided further that proceedings under sections 34 and 35 of the U. P. Land Revenue Act, 1901, in which land paying more than Rs. 200 land revenue is involved shall not be transferred to any Panchayati Adalat: U. P. Act III of 1901.

Provided further that no application for correction of records or mutation of name shall be entertained by a Panchayati Adalat.

Revision.

71. In all proceedings referred to in section 70, the Sub-Divisional Officer shall have powers of revision either upon reference made to him or on his own motion ; but there shall be no appeal against any order of a Panchayati Adalat notwithstanding any provision in the U.P. Land Revenue Act, 1901, to the contrary. U.P. Act III of 1901.

72. In proceedings under the U.P. Land Revenue Act, 1901, the Panchayati Adalat shall follow the prescribed procedure. U.P. Act III of 1901.

Res judicata and pending.

73. (1) No Panchayati Adalat shall try any suit, proceeding or issue in respect of any matter which is pending for decision in or has been heard or decided by a court of

competent jurisdiction, in a former suit between the same parties or between the parties under whom they or any of them claim.

(2) Where a case is pending in any court against an accused person in respect of any offence or where an accused person has been tried for any offence, no Panchayati Adalat shall take cognizance of any such offence or on the same facts, of any other offence of which the accused might have been charged or convicted.

74. Where a case, suit or proceeding is maintainable in more than one Panchayati Adalat the plaintiff or the applicant or the complainant, as the case may be, may bring the case, suit or proceeding in any one of such Panchayati Adalats. Any dispute regarding jurisdiction shall be decided by the Sub-Divisional Magistrate, Munsif or Sub-Divisional Officer, having jurisdiction, as the case may be. Concurrent jurisdiction.

75. Any person who wishes to institute a suit, case or proceeding under this Act before a Panchayati Adalat may make an application orally or in writing to the Sarpanch of the Panchayati Adalat or in case of his absence from the circle to such other Panch as he may have appointed in this behalf and shall at the same time pay the prescribed fee. Institution of suits and cases.

VII of 1870. The Court-Fees Act, 1870, shall not apply to Panchayati Adalats except as may be prescribed. In every suit, the plaintiff shall state its value.

76. (1) Where a suit, case or proceeding is instituted orally, the Sarpanch or Panch receiving the application shall record without delay the prescribed particulars and the signature or thumb-impression of the applicant shall be taken thereon. Substance of the application to be recorded in register.

(2) The Sarpanch, or in his absence, the Panch mentioned in section 75 shall thereupon appoint a Bench of the Panchayati Adalat under section 49 and refer the said application to that bench for disposal and shall also fix a date for the first hearing of the application before the said bench and give notice of the said date to the applicant and to the members thereof.

77. Every suit, case or proceeding instituted in accordance with the provisions of section 76 shall be brought before the bench of the Panchayati Adalat on the date fixed and the bench shall, unless the Sarpanch is a member of it, choose one of their members to be the chairman of that bench who shall conduct the proceedings. Manner of procedure.

78. (1) If the plaintiff, the complainant, or the applicant fails to appear after having been informed of the time and place fixed for hearing, the Panchayati Adalat may dismiss the suit, case or proceeding or pass such order as it may deem fit. Dismissal of suits and cases in the absence of the party concerned.

(2) The Panchayati Adalat may hear and decide the suit, case or proceeding in the absence of the defendant, accused or opposite party, if the summons have been served upon him or if he has been informed of the time and place fixed for hearing.

Panchayati Adalat not to revise or alter its decision.

79. (1) Except as provided in sub-section (2), or to correct a clerical error, a Panchayati Adalat shall have no power to cancel, revise or alter any decree or order passed by it.

(2) A Panchayati Adalat may, for sufficient reasons to be recorded, on application made within one month of the date of the decree or order or knowledge thereof in case personal service of summons has not been effected, restore any suit, case or proceeding which has been dismissed in default or in which a decree or order has been passed *ex parte*.

No legal practitioner to appear.

80. No legal practitioner shall appear, plead or act, on behalf of any party in any suit, case or proceeding before a Panchayati Adalat:

¹[Provided that a person who is arrested shall have the right to consult and be defended by a legal practitioner of his choice.]

Appearance in person or by representative.

81. Subject to the provisions of section 80, any party to a suit, case or proceeding may appear before a Panchayati Adalat either in person or by such servant (not being a tout), partner, relation or friend authorised by him as the Panchayati Adalat may admit as a fit person to represent him.

Special jurisdiction in matters compromised, etc.

82. Notwithstanding anything contained in this Act, or in any other law for the time being in force, it shall be lawful for a Panchayati Adalat to decide any civil or revenue dispute arising in its local area and not pending in any court in accordance with any settlement, compromise or oath agreed upon by the parties and likewise decide a case if compoundable.

Procedure and power to ascertain truth.

83. The Panchayati Adalat shall receive such evidence in a suit, case or proceeding as the parties may adduce and may call for such further evidence as, in their opinion, may be necessary for the determination of the points in issue. It shall be the duty of the Panchayati Adalat to ascertain the facts of every suit, case or proceeding before it by every lawful means in its power and thereafter to make such decree or order, with or without costs, as to it may seem just and legal. It may make local investigation in the village to which the dispute relates. It shall follow the procedure prescribed by or under this Act. The Code of Civil Procedure, 1908, the Code of Criminal Procedure, 1898, the Indian Evidence Act, 1872, and the Indian Limitation Act, 1908, shall not apply to any suit, case or proceeding in a Panchayati Adalat except as provided in this Act or as may be prescribed.

V of 1908.
V of 1898.
I of 1872.
IX of 1908.

Majority to prevail.

84. In the event of any disagreement between the Panches the opinion of the majority shall prevail.

Power of Sub-Divisional Magistrate

85. (1) If there has been a miscarriage of justice or if there is an apprehension of miscarriage of justice in any case, suit or proceeding the Sub-Divisional Magistrate in respect

U. P. Act III
of 1901.

of any case and the Munsif in respect of any suit and the Sub-Divisional Officer in respect of any proceeding under the United Provinces Land Revenue Act, 1901, may, on the application of any party or on his own motion, at any time in a pending case, suit or proceeding, as the case may be, and within sixty days from the date of a decree or order, call for the record of the case, suit or proceeding, as the case may be, from the Panchayati Adalat and may for reasons to be recorded in writing—

(a) cancel the jurisdiction of the Panchayati Adalat with regard to any suit, case or proceeding, or

(b) quash any decree or order passed by the Panchayati Adalat at any stage, or

(2) When an order has been passed by the Sub-Divisional Magistrate under sub-section (1) in respect of any case, trial, on complaint or otherwise in respect of the same offence, may be started in the court of a Magistrate having jurisdiction to try the case.

(3) When an order has been passed by a Munsif under sub-section (1) in respect of any suit, the plaintiff may institute a suit on the same cause of action and for the same relief in the court of the Munsif, and the period from the date of the institution of the suit before the Panchayati Adalat to the date of such order shall be excluded in computing the period of limitation for the fresh suit.

U. P. Act III
of 1901.

(4) When an order has been passed by a Sub-Divisional Officer in respect of any proceeding under the U.P. Land Revenue Act, 1901, proceedings in respect of the same relief and on the same facts may be started before any revenue court having jurisdiction in the matter, the period from the date such proceeding was pending before the Panchayati Adalat to the date of such order shall be excluded in computing the period of limitation for the fresh proceeding.

(5) Except as aforesaid, a decree or order passed by a Panchayati Adalat in any suit, case or proceeding under this Act shall be final and shall not be open to appeal or revision in any court.

If any application under sub-section (1) is frivolous, the applicant may be fined up to Rs. 50 by the Sub-Divisional Magistrate, Munsif or the Sub-Divisional Officer, as the case may be.

86. A Panchayati Adalat may, if it considers the evidence of, or the production of a document by, any person necessary in a suit, case or proceeding, issue and cause to be served in the prescribed manner, a summons on such person to compel his attendance or to produce or cause the production of such document, and such person shall be bound to comply with the direction contained in the summons.

87. If any person who is summoned by a Panchayati Adalat by a written order to appear to give evidence or to produce any document before it, wilfully disobeys such summons or notice or order, the Panchayati Adalat may make

and Munsif
over Pancha-
yati Adalat.

Issue of sum-
mons to wit-
nesses.

Penalties for
failing to ap-
pear before
a Panchayati
Adalat.

a complaint to the Magistrate having jurisdiction and the said person shall be punishable with fine which may extend to twenty-five rupees :

Provided that no woman shall be compelled to appear in person before the Panchayati Adalat. She may be examined on commission in the manner prescribed :

Provided also that if a document is produced in obedience to a summons issued under this section, the Panchayati Adalat shall cause the document to be copied, mark the copy after comparing with the original, to be true copy and return the original document to the person producing the same.

Dismissal of suits, etc.

88. A Panchayati Adalat may dismiss any suit or proceeding if after examining the plaintiff or the applicant it is satisfied that the suit or proceeding is frivolous, vexatious or untrue.

Revision.

89. A revision from any order or decree passed by a Panchayati Adalat shall in a case lie to the Sub-Divisional Magistrate, in a suit to the Munsif and in a proceeding under the U.P. Land Revenue Act, 1901, to the Sub-Divisional Officer having jurisdiction in the matter. U. P. Act III
of 1901.

Summons to defendant or accused persons.

90. A Panchayati Adalat after an application is made under section 75 shall unless it has been dismissed or otherwise disposed of under the provisions of this Act, cause summons in the prescribed form to be served in the prescribed manner on the defendant or the accused person or an opposite party requiring him to attend and produce his evidence at such time and place as may be stated in the summons and shall at the same time direct the plaintiff or complainant or the applicant to attend and produce his evidence at such time and place.

Warrant.

91. If a Panchayati Adalat is satisfied that a person is evading the service of summons, it may issue a bailable warrant against him for a sum not exceeding twenty-five rupees.

Payment or adjustment of decree to be recorded.

92. If on the application of the decree-holder or the judgment-debtor, the Panchayati Adalat which passed the decree finds after enquiry that the decree has been satisfied wholly or in part, the Panchayati Adalat shall record the fact in the prescribed register.

Execution of decrees.

93. (1) A decree or order passed by a Panchayati Adalat shall be executed by it in such manner as may be prescribed. If the defendant's property is situated outside the jurisdiction of the Panchayati Adalat passing such decree or order, it may transfer the decree or order for execution in the prescribed manner to the Panchayati Adalat within whose jurisdiction the property may be situated, and if there be no such Panchayati Adalat then to the Court of the Munsif within whose jurisdiction it may be situated.

(2) If a Panchayati Adalat finds any difficulty in executing a decree, it may forward the decree to the Munsif, and the Munsif shall then execute the decree as if it were a decree passed by him.

U. P. Act III of 1901. (3) An order for costs in a proceeding under the U. P. Land Revenue Act, 1901, shall as far as possible, be executed as provided in sub-sections (1) and (2) Sub-section (2) shall be so read and construed as if for the word "Munsif" the words "Sub-Divisional Officer" were substituted.

V of 1898. 94. The fine imposed in a case by a Panchayati Adalat shall be recoverable in the manner provided in section 386 of the Code of Criminal Procedure, 1898. But if the Panchayati Adalat finds any difficulty in its recovery it may request the Sub-Divisional Magistrate within whose jurisdiction the Panchayati Adalat lies to recover it and he shall recover it as if the sentence of fine had been passed by him. Recovery of fine.

CHAPTER VII

EXTERNAL CONTROL

95. The ¹[State] Government may—

- (a) cause to be inspected any immovable property owned by a Gaon Sabha, used or occupied by a Gaon Panchayat or a joint committee, or any working progress under the direction of such Gaon Panchayat or joint committee; Inspection.
- (b) by an order in writing call for and inspect a book or document in the possession or under the control of a Gaon Panchayat or a joint committee;
- (c) by an order in writing require a Gaon Panchayat or a joint committee to furnish such statements, reports or copies of documents, relating to the proceedings or duties of the Gaon Panchayat or such committee as it thinks fit;
- (d) record in writing for the consideration of a Gaon Panchayat or joint committee any observation which it thinks proper in regard to the proceedings or duties of such Gaon Panchayat or joint committee;
- (e) institute any enquiry in respect of any matter relating to a Gaon Sabha, Gaon Panchayat or Panchayati Adalat; and
- (f) dissolve any Gaon Panchayat, joint committee or Panchayati Adalat or remove or suspend a member thereof if in the opinion of the ¹[State] Government such Gaon Panchayat, joint committee, Panchayati Adalat or member has abused its or his position or has continuously failed to perform the duties imposed by the Act or any rule made thereunder.

96. (1) The prescribed authority or any other officer specially empowered in this behalf by the ¹[State] Government on information received or on his own initiative, may, Prohibition of certain proceedings.

¹ Sub. by the Adaptation of Laws Order, 1950.

by order in writing prohibit the execution or further execution of a resolution or order passed or made under this or any other enactment by a Gaon Sabha, Gaon Panchayat or a joint committee or any officer or servant thereof if in his opinion such resolution or order is of a nature as to cause or likely to cause obstruction, annoyance or injury to the public or to any class or body of persons lawfully employed or danger to human life, health or safety, or riot or affray. It may prohibit the doing or continuance by any person of any act in pursuance of or under cover of such resolution or order.

(2) Where an order is made under sub-section (1) a copy thereof, with a statement of the reasons for making it shall forthwith be forwarded by the prescribed authority or the aforesaid officer to the ¹[State] Government which may after calling for an explanation from the Gaon Sabha, Gaon Panchayat, joint committee or the officer or servant thereof and considering the explanation, if any, made by it, rescind, modify or confirm the order.

(3) Where the execution or further execution of a resolution or order is prohibited by an order made under sub-section (1) and continuing in force, it shall be the duty of the Gaon Sabha, Gaon Panchayat or the joint committee or any officer or servant thereof, if so required by the authority making such order to take any action which it would have been entitled to take, if the resolution or order has never been made or passed and which is necessary for preventing any person from doing or continuing to do anything under cover of the resolution or order, of which the further execution is prohibited.

Delegation of powers by State Government.

²[96-A. The State Government may delegate all or any of its powers under this Act to any officer or authority subordinate to it subject to such conditions and restrictions as it may deem fit to impose.]

CHAPTER VIII

PENALTIES AND PROCEDURE

Penalty for infringement of the provisions of the Act.

97. Whoever contravenes any provision of this Act, shall be punishable, unless otherwise prescribed, with fine, which may extend to ten rupees, and when the breach is a continuing one with a further fine which may extend to one rupee for every day after the first conviction during which an offender is proved to have persisted in the offence.

Infringement of rules and by-laws.

98. In making a rule the ¹[State] Government, and in making a by-law the Gaon Panchayat may, with the sanction of the prescribed authority, direct, that a breach of it shall be punishable with fine which may extend to ten rupees, and when the breach is a continuing one, with a further fine which may extend to one rupee for every day after the date of the first conviction during which the offender is proved to have persisted in the offence.

¹ Sub. by the Adaptation of Laws Order, 1950.

² Ins. by s. 7 of Act X of 1950.

99. (1) Whoever removes, displaces or makes an alteration in or otherwise interferes with any pavement, gutter or other material of a public street, or any fence wall or post thereof, or a lamp post or bracket, direction post, standpost, hydrant, or other such property of the Gaon Sabha without the written sanction of the Gaon Panchayat or other lawful authority shall be punishable with fine which may extend to ten rupees.

Penalty for tampering with the Gaon Panchayat's property.

(2) If through any act, neglect, or default on his part, a person has incurred a penalty imposed by sub-section (1) and has caused any damage to the property of a Gaon Sabha, the person incurring such penalty shall be liable to make good such damage as well as to pay such penalty, and the damages may be recovered from the offender in the prescribed manner.

100. If a notice has been given to a person under the provisions of this Act or of any rule or by-law made thereunder to a person requiring him to execute a work in respect of any property, movable or immovable, public or private, or to provide or do or refrain from doing anything within a time specified in the notice, and such person fails to comply with the notice, then—

Disobedience to notice issued.

- (a) the Gaon Panchayat may cause such work to be executed or such thing to be provided or done and may recover all expenses incurred by it on such account from the said person in the prescribed manner;
- (b) such person shall also be liable on conviction before a magistrate, to a fine which may extend to ten rupees and in case of continuing breach, of a further fine which may extend to one rupee for each day after the date of the first conviction during which the offender is proved to have persisted in the offence.

101. No notice shall be invalid on account of any defect or omission in its form.

Notice not to be invalid.

102. (1) Any person aggrieved by an order or direction made by a Gaon Panchayat under the Act or under any rule or by-law may, unless otherwise prescribed, within 30 days from the date of such direction or order, exclusive of the time requisite for obtaining a copy thereof appeal to the prescribed authority which may vary, set aside or confirm the said order or direction and may also award costs to or against the person filing the appeal.

Appeals.

(2) The prescribed authority may, if it thinks fit, extend the period allowed by sub-section (1) for appeal.

(3) The decision of the prescribed authority under sub-section (1) shall be final and shall not be questioned in any court of law.

103. When an appeal has been filed against an order or direction in section 102 any proceeding to enforce such order or direction and any prosecution for the breach thereof may, by order of the prescribed authority, be suspended pending

Suspension of prosecution in certain cases.

the decision of the appeal, and if such order or direction is set aside on appeal, disobedience thereof shall not be deemed to be an offence.

Power to compound offences.

104. (1) Subject to any rule made in this behalf a Gaon Panchayat may, either before or after the institution of any case, compound an offence against this Act or any rule or by-law made thereunder on payment of such sum in cash to the Gaon Panchayat as may be prescribed.

(2) When an offence has been compounded the offender, if in custody, shall be discharged and no further proceedings shall be taken against him in respect of the offence so compounded.

All sums paid by way of composition under this section shall be credited to the Panchayat's Fund.

Entry and inspection.

105. The Sarpanch of the Gaon Panchayat and, if authorized in this behalf by the Gaon Panchayat any other member, officer or servant of the Gaon Panchayat may enter into or upon any building or land, with or without assailants or workmen, in order to make an inspection or survey or to execute a work which a Gaon Panchayat is authorized by this Act, or by rules or by-laws made thereunder, to make or execute, or which it is necessary for a Gaon Panchayat for any of the purposes or in pursuance of any of the provisions of this Act or of rules or by-laws, to make or execute :

Provided that—

- (a) except when it is in this Act or rules or by-laws otherwise expressly provided, no such entry shall be made between sunset and sunrise; and
- (b) except when it is in this Act or in rules or by-laws otherwise expressly provided, no building which is used as a human dwelling shall be so entered except with the consent of the occupier thereof and without giving the said occupier not less than four hours' previous written notice of the intention to make such entry; and
- (c) sufficient notice shall in every instance be given even when any premises can otherwise be entered without notice to enable the inmates of an apartment appropriated for females to remove to some part of the premises where their privacy shall not be disturbed; and
- (d) due regard shall always be had to the social and religious usages of the occupants of the premises entered.

Suits against Gaon Panchayat or its officer.

106. (1) No suit or other legal proceeding shall be instituted against a Gaon Sabha or a Gaon Panchayat or against a member, officer or servant of the Gaon Panchayat or against any person acting under its or his direction for anything done or purporting to have been done in his official capacity under this Act, until the expiration of two months next after notice in writing has been in the case of a Gaon

Panchayat delivered in or left at the office of the Panchayat and in the case of a member, officer or servant or any person acting under his direction or the direction of the Gaon Panchayat delivered to him or left at his office or place of abode, explicitly stating the cause of action, the nature of the reliefs sought, the amount of compensation, if any, claimed, and the name and place of abode of the intending plaintiff and the plaint shall contain a statement that such notice has been so delivered or left.

(2) No action such as is described in sub-section (1) shall be commenced otherwise than within six months next after the accrual of the cause of action.

XVIII of
1850.

107. (1) The provisions of the Judicial Officer's Protection Act, 1850, shall apply to the members of Panchayati Adalat. Protection to Gaon and Panchayati Adalat.

(2) No suit or prosecution shall be entertained in any court against a Gaon Panchayat or any member or officer thereof or any person acting under its or his direction in respect of anything in good faith done or intended to be done under this Act or any rule or by-laws made thereunder.

108. Every police officer shall give immediate information to the Gaon Panchayat of an offence coming to his knowledge which has been committed against this Act or any rule or by-law made thereunder and shall assist all members and servants of the Gaon Panchayat and Panchayati Adalat in the exercise of their lawful authority. Powers and duties of Police in respect of offences and assistance to Panchayats.

109. If any dispute arises between two or more Gaon Panchayats or between a Gaon Panchayat and the town area or a municipal board or a district board it shall be referred to the prescribed authority whose decision shall be final and shall not be questioned in any court of law.

CHAPTER IX

RULES, BY-LAWS AND REPEALS

110. (1) The ¹[State] Government may, subject to the condition of previous publication by notification in the official *Gazette*, make rules consistent with this Act to carry out the purposes of this Act. Power of ¹[State] Government to make rules.

(2) In particular and without prejudice to the generality of the foregoing power such rules may provide for—

- (i) any matter for which power to make provision is conferred expressly or by implication on the Provincial Government by this Act;
- (ii) the establishment of Gaon Sabha, Gaon Panchayat and Panchayati Adalats;
- (iii) the time and place of the meetings of Gaon Sabha, Gaon Panchayat and Panchayati Adalats, the manner of convening meetings and giving notice thereof;

¹ Sub. by the Adaptation of Laws Order, 1950.

- (iv) the conduct of proceedings including the asking of questions by members at meetings and the adjournment of meetings and also minute books of meetings;
- (v) the establishment of committees and the determination of all matters relating to the constitution and procedure of such committees;
- (vi) the suspension and removal of office-bearers;
- (vii) the records and registers that shall be maintained by Gaon and Panchayati Adalats and the form in which they are to be;
- (viii) the action to be taken on the occurrence of a vacancy in the executive committee, joint committee, any other committee and Panchayati Adalats;
- (ix) the authority by which disputes in relation to appointments to executive committee, joint committee, any other committee or Panchayati Adalat may be decided and the procedure to be followed therein;
- (x) the amount and nature of security to be furnished by a servant of the Gaon Panchayat from whom it is deemed expedient to require security;
- (xi) appointment, qualification, dismissal, discharge, removal and punishment of the servants of Gaon Panchayat and their right of appeal;
- (xii) management and regulation of provident fund for the servants of Gaon Panchayats if the system of provident fund is adopted by any Gaon Panchayat;
- (xiii) the establishment, maintenance and management of primary schools and the construction and repair of buildings thereof;
- (xiv) the establishment, administration and control of libraries, reading rooms, dispensaries entrusted to a joint committee, the construction and repairs of buildings connected therewith and the supply of medicine and medical assistance to the poor inhabitants of the local area of a Gaon Sabha;
- (xv) the discovery, removal and destruction of water hyacinth on any land, premises or water, the construction of fences and barriers for checking its movements and the cost incurred in carrying out such work;
- (xvi) action in regard to the sanitation, conservancy, drainage, buildings, public streets and water supply and the prohibition of public nuisance;
- (xvii) the framing of budgets and earmarking fund for specific purposes;

- (xviii) the returns to be submitted by Gaon Panchayats and Panchayati Adalats the form in which they are to be, the authorities to which and the time when they shall be submitted ;
- (xix) the levy of taxes and licence fees, the authority, by which and the manner in which the taxes may be assessed and the authority to which an appeal from an assessment order may be made;
- (xx) the method and time of payment of taxes and other dues, the procedure of recovery and the authority whose assistance may be taken by Gaon Panchayats in the recovery of taxes and dues;
- (xxi) the method of account keeping by Gaon Panchayats;
- (xxii) the maintenance of public buildings and nazul land;
- (xxiii) the formalities to be observed when transferring any property and the manner in which a deed of contract may be executed by a Gaon Panchayat;
- (xxiv) powers of auditors, inspecting and superintending authorities to hold inquiries, summoning and examining witnesses, compelling the production of documents and all other matters connected with audit inspection and superintendence;
- (xxv) the issue, service or execution of summons, notices and other processes of Panchayati Adalat and issue and service of notices by Gaon Panchayats;
- (xxvi) the transfer by a Panchayati Adalat of summons and other processes to another Panchayati Adalat or any court for service or execution;
- (xxvii) the fees to be levied by Panchayati Adalat for institution of suits and cases, for issue of processes, for obtaining copies of documents and other matters;
- (xxviii) the court-fees and other fees payable where a Panchayati Adalat, with the consent of parties, entertains a suit which is otherwise beyond its jurisdiction;
- (xxix) the procedure for execution of decrees, orders and sentence passed by Panchayati Adalats;
- (xxx) the allotment by Gaon Panchayats of funds for the performance by Panchayati Adalats of their duties under this Act and the extent to which fees paid to Panchayati Adalats may be appropriated by Gaon Panchayats;
- (xxxi) the powers that may be exercised by district board or any prescribed authority in the discharge of their obligations under this Act and the manner in which such powers may be exercised;

- (xxxii) the procedure to be observed in the making of by-laws by prescribed authority for Gaon Panchayats or by Gaon Panchayats ;
- (xxxiii) the printing of the prescribed forms and registers ;
- (xxxiv) the submission for approval of plans, designs specifications and estimates ;
- (xxxv) the duties, powers and functions of village volunteer force ;
- (xxxvi) the submission of annual reports by Gaon Panchayats and their review ;
- (xxxvii) persons other than members of Gaon Panchayats, who may be present in an advisory capacity in meetings of Gaon Panchayats ;
- (xxxviii) channel of correspondence between Gaon Panchayat and other authorities ;
- (xxxix) disposal of assets and liabilities of a Gaon Panchayat on its abolition ;
- (xl) the action to be taken on the inclusion of the whole or part of the local area of any Gaon Panchayat in any municipality, notified area, town area or cantonment, and the manner in which the assets and liabilities of the Gaon Panchayat may be disposed of in such circumstances ;
- (xli) the conditions subject to which sums due to a Gaon Panchayat may be written off as irrecoverable, and the conditions subject to which the whole or any part of a fee may be remitted ; and generally for the guidance of Gaon Panchayats, Panchayati Adalats, joint committees, other committees, servants of the ¹[Government] and other authorities in any matter connected with the carrying out of the provisions of this Act ;
- (xlii) the regulation of the election of the members of the Gaon Panchayat in order to secure the adequate representation of the Scheduled Castes.

Powers of District Boards to frame by-laws.

III. The prescribed authority may, and when required by the ¹[State] Government, shall make by-laws for a Gaon Panchayat within its jurisdictions consistent with the Act and the rules made thereunder for the purpose of promoting or maintaining the health, safety and convenience of persons residing within the jurisdiction of a Gaon Panchayat and for furtherance of administration of Gaon Panchayats under this Act.

Power of Gaon Panchayats to frame by-laws.

III.2. (1) Subject to the provisions of this Act and the rules made thereunder and the by-laws, if any, made by the prescribed authority, a Gaon Panchayat may frame by-laws---

¹ Sub. by the Adaptation of Laws Order, 1950.

- (a) to prohibit the removal or use of water for drinking purposes from any source which is likely to cause danger to health and to prohibit the doing of anything likely to contaminate any source of drinking water;
- (b) to prohibit or regulate the discharge of water from any drain or premises on a public street or into a river, pond, tank, well or any other place;
- (c) to prevent damage to public streets and Gaon Panchayat property;
- (d) to regulate sanction, conservancy and drainage in the area of Gaon Panchayats;
- (e) to prohibit or regulate the use of public streets or other public places by shop-keepers or other individuals or collection of market tolls on public streets;
- (f) to regulate the manner in which tanks, ponds and cesspools, pasture land, playground, manure pits, land for disposal of dead bodies and bathing places shall be maintained and used.

(2) The draft of by-laws framed by Gaon Panchayats shall be published in the prescribed manner. Any objections received thereto shall be considered at a meeting of the Gaon Panchayat and the by-laws shall then be submitted together with the objection, if any, received and the decisions taken thereon to the prescribed authority. The by-laws as sanctioned by the prescribed authority shall come into force after they have been published in the prescribed manner.

113. (1) On and from the date on which a Gaon Sabha established in any area under this Act—

**Repeal and
transitory
provisions.**

**U. P. Act VI
of 1920.**

- (a) the United Provinces Village Panchayat Act, 1920, shall be deemed to be repealed in respect of such area and the Panchayat, if any, established thereunder in such area shall be abolished, its fund and other properties shall vest in, and its liabilities shall be transferred to such Gaon Sabha, and cases and suits, if any, pending on such date before that Panchayat shall be transferred to a Panchayati Adalat, if any, established in that area, on such date before that Panchayat shall be transferred to criminal or civil court, as the case may be of lower grade having jurisdiction therein;

**U. P. Act III
of 1892.**

- (b) the United Provinces Village Courts Act, 1892, shall be deemed to be repealed in respect of such area and all courts established thereunder shall be abolished and all suits and other proceedings pending on such date in any village court in such local area shall be transferred to a Panchayati Adalat, if any, established in that local area, or where no such Panchayati Adalat exists to the civil court of lowest grade having jurisdiction therein; and

**U. P. Act II
of 1892.**

- (c) the United Provinces Village Sanitation Act, 1892, shall be deemed to be repealed in respect of such area;

Provided that wherein the area of any Panchayat established under the United Provinces Village Panchayat Act, 1920, more than one Gaon Sabha have been established, the fund, properties and liabilities of such Panchayat shall be distributed among such Gaon Sabhas in accordance with the prescribed rules.

SCHEDULE

(See section 68)

Description of suits	Period of limitation	Time from which period begins to run
1. For money due on a contract.	3 years	When the money became due to the plaintiff.
2. For the recovery of movable property or the value thereof.	Ditto	When the plaintiff became entitled to the delivery of the movable property.
3. For compensation for wrongfully taking or injuring a movable property.	Ditto	When the movable property was wrongfully taken or when injury was done to it.
4. For damages caused by cattle trespass.	6 months	When the damage was caused by the cattle trespass.

ACTS IN PARTS 'B' STATES

THE HYDERABAD VILLAGE PANCHAYAT ACT, 1951

Hyderabad Act No. VIII of 1951

An Act to amend and consolidate the law relating to the institution of Village Panchayats

WHEREAS it is expedient to amend and consolidate the law relating to the institution of Village Panchayats; Preamble.

It is hereby enacted as follows :—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Hyderabad Village Panchayat Act, 1951. Short title, extent and commencement.

(2) It extends to the whole of the Hyderabad State except areas legally included within the jurisdiction of corporations constituted under the Hyderabad Municipal Corporations Act, 1950, or of any Municipal Committee, Town Committee, Mines Board or Cantonment Board or authority.

(3) It shall, with the exception of Chapters IX, X and XI, come into force on the date of its publication in the *Gazette* and the said Chapters shall come into force in such local area to which the Act extends, as may, from time to time, be notified by Government in the *Gazette*.

2. (1) In this Act, unless there is anything repugnant in the subject or context,— Definitions.

- (a) “building” includes a house, outhouse, shop, stable, warehouse, workshop, canopy, hut, shed or other enclosure, and shall include also walls, verandahs, platforms, plinths, door-steps and the like;
- (b) “Panchayat” means a Panchayat established under this Act;
- (c) “Sarpanch” means a Sarpanch elected under section 6;
- (d) “Nyaya Panchayat” means a Nyaya Panchayat established under section 79 for the purpose of the trial of suits and cases;
- (e) “Chairman” means the Chairman of a Nyaya Panchayat appointed under section 31;
- (f) “Panch” means a member of a Panchayat or a Nyaya Panchayat;
- (g) “prescribed” means prescribed by rules made by Government under this Act;
- (h) “Offence” means any act or omission made punishable by any law for the time being in force ;
- (i) “Suit” means a Civil suit triable by a Nyaya Panchayat under this Act;

- (j) "Case" means with reference to a judicial proceeding, a criminal proceeding in respect of any offence triable by a Nyaya Panchayat;
- (k) "Village" means for the purposes of this Act—
- (i) any local area which according to the last official census had a population of not less than 1,000 and not more than 5,000 persons and which is recognised by Government as a village for the purposes of land revenue administration;
 - (ii) any local area with a population exceeding 5,000 persons according to the last official census, being an area which has been exempted for the time being from the operation of section 6 of the Municipal and Town Committees A'in No. IV of 1352 Fasli, which is declared to be a village by Government by notification for the purposes of this Act;
 - (iii) any local area with a population of less than 1,000 according to the last official census which is declared by Government by notification to be a village for the purposes of this Act;
 - ¹[(iv) any group of local areas consisting of a village as defined in sub-clause (i), (iii) or (v) and its adjoining unit or units of local areas having, according to the last official census, a population of less than 1,000 for each such unit and a total population of not more than 5,000 for such group, which the Government may, by notification, specify by name and declare to be a village for the purpose of this Act; and
 - (v) any local area for which a Rural Reconstruction Society or a multi-purpose Co-operative Society registered under the Hyderabad Co-operative Society Act No. II of 1323 Fasli, has been formed, the subscribing members of which include more than half the householders of such area.

CHAPTER II

FORMATION AND CONSTITUTION OF PANCHAYATS

Declaration
of villages as
Panchayat
villages.

3. (1) Subject to the orders of Government the Deputy Collector may in such manner as may be prescribed declare any local area which is a village to be a Panchayat village and shall notify such declaration in the *Gazette* :

Provided that before making and notifying such declaration the Deputy Collector—

- (a) shall publish in such manner and at such places as may be prescribed a notice of his intention of making such a declaration and shall hear objections, if any, filed within one month of the publication of the notice; and
- (b) shall after hearing objections refer the same with his opinion thereon for the orders of Government.

¹ Ins. by s. 2 of Act XLII of 1952.

(2) On the notification of any local area under sub-section (1) as a Panchayat village, a Panchayat shall forthwith be constituted in such area in the manner specified in section 4.

4. A Panchayat shall consist of such number of members ^{Constitution of Panchayat.} being not less than six and not more than twelve as the Deputy Collector may fix and out of the total number of members so fixed—

(a) three members (including one belonging to a Scheduled Caste) or two members (including one belonging to a Scheduled Caste) shall be nominated according as the total number of members does or does not exceed eight; and

(b) the rest shall be elected.

Explanation.—In this sub-section the expression “Scheduled Caste” shall have the meaning assigned to the expression in Article 366 (24) of the Constitution of India.

(2) The election will take place on the date and at the place in the village fixed and notified by the Deputy Collector at least one week before such election.

(3) The names of the elected and nominated members shall be declared and published by the Deputy Collector by affixing a list thereof in the Village Chaudi by beat of drum in the village concerned and in such other modes as may be prescribed and such members shall thereupon be entitled to enter upon the execution of their duties as Panchas.

(4) The Government may frame rules regulating the procedure for convening and conducting meetings of a Panchayat, the election of members under sub-section (2) and for the publication of the names of the elected and nominated members under sub-section (3).

¹[4-A. After the declaration of a village as a Panchayat village the Deputy Collector shall, by order, determine:— ^{Division of a Panchayat village into constituencies.}

(a) The constituencies into which the village shall be divided for the purpose of election to the village Panchayat;

(b) The extent of each constituency; and

(c) Subject to the provisions of section 4, the number of elected members allotted to each constituency.]

5. (1) Subject to the provisions of section 7, every person ^{Qualification of Panchas.} who is a resident of a village and has completed 21 years of age and whose name is entered in the electoral rolls of the village shall be qualified to vote and be a Panch.

(2) The electoral rolls shall be prepared by the Deputy Collector in such manner as may be prescribed; and every application for and against the inclusion or exclusion of a name in the said roll shall be made to the Deputy Collector whose decision on the application shall be final and shall not be questioned in any Court and shall be given effect to by amending the electoral roll, when necessary.

Appointment of a Sarpanch, Deputy Sarpanch and Secretary of the Panchayat. 6. (1) For every Panchayat one of the Panchas shall be elected to be a Sarpanch by the Panchayat and his election shall be published in the same way as under sub-section (3) of section 4. A Deputy Sarpanch shall be elected by the Panchayat and his name shall be published in the same manner.

(2) The Deputy Collector shall* in consultation with Panchayat appoint a literate Panch or other resident of the village who is qualified to become a panch to be the Honorary Secretary of the Panchayat.

Disqualifications.

7. (1) No person may—

(i) hold office in more than one Village Panchayat; or
(ii) become or remain a Panch or be entitled to vote in the election of Panchas if he—

(a) by a criminal court whether within or without the state is sentenced to imprisonment for an offence other than a political offence for three months or longer, or convicted of an offence punishable with imprisonment for seven years or more, such sentence not having been subsequently reversed or pardoned or has been ordered by such court to find security under the Hyderabad Criminal Procedure Code, such order not having subsequently been set aside; or

(b) refuses to act or becomes incapable of acting; or

(c) is of unsound mind, adjudged as such by the competent court, a deaf-mute or a leper; or

(d) applies to be adjudicated an insolvent or is an undischarged insolvent; or

(e) is in the service of the Government, or a local authority; or

(f) has been dismissed from the service of the Government, the Court of Wards or any local authority for misconduct on the ground of fraud or embezzlement and has been declared by Government to be ineligible for public service; or

(g) is under the provision of any law for the time being in force ineligible to be a member of any local authority; or

(h) holds any salaried office or place of profit in the gift or disposal of the Panchayat, while holding such office or place; or

(i) has directly or indirectly any share or interest in any contract with, by or on behalf of the Panchayat while owning such share or interest;

(j) is in arrears for more than two years of any tax, toll, fee or rate due by him to the Panchayat:

Provided that firstly clause (e) shall not disqualify a patel, patwari, set-sendhi or balutedar to be a nominated member and secondly the disqualifications in clauses (a), (f), (g) and (h) may be removed by an order of the Government in this behalf and the disqualification in clause (i) may be removed by an order of the Deputy Collector in this behalf.

(2) Any question as to whether a Panch by becoming subject to any of the disqualifications in sub-section (1) has ceased to be a member shall be decided by the Deputy Collector, whose decision shall be final.

8. (1) The term of office of a Panch other than one appointed to fill a casual vacancy shall be three years from the date of the publication of the names of Panchas under sub-section (3) of section 4. Term of office of Panch, Sarpanch or Secretary.

(2) A Sarpanch or a Deputy Sarpanch or a Panch appointed as Honorary Secretary shall be deemed to have vacated his office on the expiry of his term as Panch or on his otherwise ceasing to be a Panch :

Provided that a Sarpanch, Panch appointed as Honorary Secretary or Deputy Sarpanch who does not cease to be a Panch under section 7, 9, 10 or 52 shall be deemed to continue in office until the names of the new Panchas appointed in their stead are published in accordance with sub-section (3) of section (4).

9. (1) A Panch, Deputy Sarpanch or Sarpanch may resign his office by giving notice to the Deputy Collector and on such resignation being accepted such Panch, Deputy Sarpanch or Sarpanch shall be deemed to have vacated his office. Resignation of office by Panch, Deputy Sarpanch, or Sarpanch and filling up vacancies.

(2) When there is a vacancy in the office of a Panch, Deputy Sarpanch or Sarpanch, the Deputy Collector shall have his successor elected or as the case may be nominated in the prescribed manner and shall publish the names of the persons elected or nominated in the manner laid down in sub-section (3) of section 4 and until the vacancy is filled up any of the remaining office-bearers or if there is no such office-bearer any of the person elected by the Panchayat for the purpose shall be in charge of the office.

(3) The person elected or nominated in the vacancy under sub-section (2) shall hold office so long as the person in whose place he has been elected or nominated would have been entitled to hold office if such vacancy had not occurred.

10. (1) The Deputy Collector may in consultation with the other members of the Panchayat remove from his office a Sarpanch or Panch or Deputy Sarpanch for misconduct or neglect of or failure to perform his duty, or for any disgraceful conduct after giving him an opportunity of being heard and after such enquiry as he deems necessary. Removal of Panch or Sarpanch, etc.

(2) An Appeal shall lie from an order under sub-section (1) to Government whose decision shall be final. Such appeal shall be preferred within 30 days from the date of the order appealed against.

11. Nothing done or no proceeding taken under this Act shall be questioned on account of any vacancy in a Panchayat or a Joint Committee or Sub-Committee, or on account of any defect or irregularity not affecting the merits of the case. An Act of Panchayat not to be invalidated by vacancy or irregularity.

**Holding of
Panchayat
Meetings.**

12. (1) A Panchayat shall in the transaction of business follow such procedure as may be prescribed. The Sarpanch shall hold a meeting of a Panchayat at least once in each month, and also whenever he thinks fit; and shall, upon the written request of not less than one-half of the members, call a special Panchayat meeting.

**Quorum of
procedure.**

(2) The quorum for a meeting of the Panchayat shall be not less than one-half of the total number of Panchas holding office and shall not be less than five in any case.

(3) At every meeting of the Panchayat the Sarpanch or in his absence the Deputy Sarpanch shall preside and, in the absence of both, the members of the Panchayat present shall choose one of the members to preside, and business shall be transacted in the prescribed manner.

(4) Except as otherwise provided in this Act or as prescribed all questions before a Panchayat shall be decided by a majority of the votes of the members present and voting. The Sarpanch unless he refrains from voting as a Panch, shall give his vote as a Panch, before declaring the number of votes for and against a question, and then in case of equality of votes he shall give a second or casting vote as Sarpanch.

**Incorporation of the
Panchayat.**

13. Every Panchayat shall be a body corporate by the name of the Panchayat of the village for which it is established and shall have perpetual succession and a common seal, which it shall use in all its transactions and shall by the said name sue and be sued. It shall also have such powers as may be prescribed by the Government to acquire, hold or transfer property movable or immovable to enter into contracts and to do all other things necessary for the purpose of this Act.

**Rural Re-
construction
Society or
a multi-pur-
pose Co-ope-
rative Society
to be deemed
a Panchayat.**

14. (1) When in any village there is in existence, or brought into existence a Rural Reconstruction Society or a multi-purpose Co-operative Society registered under the Hyderabad Co-operative Societies Act No. 11 of 1923 Fasli, the subscribing members of which include more than half the householders of such village, such society may, in such manner and to such extent as may be prescribed, be empowered by the Deputy Collector, by notification to take charge of the Panchayat of the village or if there is no such Panchayat to discharge the duties and exercise the powers of a Panchayat under this Act.

(2) While a notification under sub-section (1) remains in force no other Panchayat shall be constituted for such village under this Act.

CHAPTER III

DUTIES AND POWERS OF PANCHAYAT

**Compulsory
duties.**

15. (1) Subject to the general control of the Government and to such rules as may be made under this act, in addition to other duties imposed upon it by this Act or by any other law or order having the force of law for the time being in force, it shall be the duty of a Panchayat so far as the funds

at its disposal may admit, to undertake and make reasonable provisions for the following matters within the limit of the area subject to its authority :—

- (a) the construction, repair and maintenance of village roads, cart-tracks, footpaths, culverts, bridges and buildings except those under the control of the Government or another local authority;
- (b) the construction of drains and disposal of drainage water and sullage;
- (c) the cleansing or maintenance of street drains, pools, tanks and wells (other than tanks and wells used for irrigation) and other public places or works;
- (d) the regulation of buildings;
- (e) the sanitation, conservancy and prevention and abatement of nuisances;
- (f) the preservation and improvement of public health particularly the prevention and control of epidemic diseases;
- (g) the maintenance and regulation of the use of the public buildings, pastures vested in the Panchayat;
- (h) the control of other institutions or property belonging to or vested in the Panchayat;
- (i) the conversion of step-well into draw-wells;
- (j) the supply of water for domestic and village purposes;
- (k) the removal of rubbish heaps, jungle growth, prickly pear, filling in disused wells, insanitary ponds, pools, ditches, pits or hollows, the prevention of water-logging in irrigated areas and other improvements of the sanitary conditions.

(2) No suit for damages or for specific performance shall be maintainable against any Panchayat or any Panch or officer thereof, on the ground that any of the duties specified in sub-section (1) have not been performed.

16. (1) Subject to the general control of the Government and to any other law for the time being in force and to such rules as may be prescribed in addition to the duties imposed upon it under the provision of this or any other law for the time being in force, it shall be within the discretion of the Panchayat and within the limits of its funds to make provision for carrying out the requirements of the area under its control in respect of any or all of the following matters:—

Discretionary functions.

- (a) providing facilities for travellers;
- (b) relief of the poor and the sick;
- (c) extension of village sites;
- (d) excavation, cleansing and maintenance of ponds for the supply of water to animals;
- (e) planting and preservation of groves and trees on the sides of roads and other public grounds;
- (f) control of cattle stands, threshing-floors, grazing grounds, and other communal waste lands;

- (g) development of education, agriculture, co-operation, rural industries and trade;
- (h) establishment and maintenance of nurseries and seed banks;
- (i) purchase and maintenance of stud bulls;
- (j) the lighting of streets and public places in the village;
- (k) the provision and maintenance and control of slaughter houses;
- (l) the sinking and repairing of wells and the excavation, repair and maintenance of tanks for supply of water for drinking, washing and bathing purposes and the construction of bathing ghats ;
- (m) establishment and maintenance of fairs, weekly markets, butcher-houses and other works of utility to the village ;
- (n) lighting the village roads and lanes ;
- (o) the registration of births and deaths ;
- (p) with the previous approval of the Deputy Collector other measures of public utility, calculated to promote the safety, health, comfort or convenience of the residents of the village ;
- (q) promotion of agriculture on co-operative basis ;
- (r) the keeping of grain stocks ;
- (s) the establishment and maintenance of libraries and reading rooms ;
- (t) laying down and maintenance of parks and playgrounds ;
- (u) promotion of cottage industries ;
- (v) construction and maintenance of public lavatories ;
- (w) establishment and maintenance of markets ;
- (x) watch and ward of the village and the crops therein :

Provided that the cost of the watch and ward under paragraph (x) shall be recovered by the Panchayat from such person in the village and in such manner as may be prescribed and at a rate not exceeding one anna for each person who is aged not less than twenty one years ;

- (y) construction of small houses for their servants or if paid for the work for the residents of the village;
- (z) preparing compost manure and arranging pits for it;
- (z)/1. regulating, checking and abating of offensive trades or practices dangerous to the public ;
- (z)/2. the promotion of social and moral welfare including temperance, removal of untouchability, the eradication of corruption and measures to discourage gambling and litigation and to encourage arbitration;
- (z)/3. the reporting to the proper authorities village-complaints which are not removable by the Panchayat.

(2) A Panchayat may subject to the rules made by the Government, prohibit the slaughter of animals for sale at any place within the village other than a slaughter-house maintained by the Panchayat whether for itself or for a District Board.

17. The Government may, subject to such limitations and conditions as may be prescribed, transfer to the Panchayat of the village the protection and maintenance of any village irrigation work, the expenditure of the annual Government provision for special urgent repairs (Fouri maranmat), or the regulation of the distribution of water from any such work to the fields depending on it.

Transfer of functions to Panchayats in respect of irrigation works.

18. The Government may make rules empowering a District Board by a general or special order to authorise any Panchayat to exercise any functions of such Board or perform any duties of such Board other than those specified in sections 15, 16 and 17.

Powers of District Boards, etc., to transfer any function.

19. The Government may subject to such conditions as may be prescribed authorise any Panchayat by a general or special order, to exercise any functions or perform any duties other than those specified in sections 15, 16 and 17.

Government's powers to add to functions of Panchayats.

20. Subject to such provisions as may be prescribed and in particular and without prejudice to the foregoing powers a Panchayat shall have power to do all acts necessary for and incidental to the carrying out of the functions entrusted to it.

General Powers.

21. The Panchayat shall have control of all village roads and bridges thereon, cart-tracks, drains, tanks, wells and other public places in the village, not being private property, and not being under the control or management of any local authority or a Government officer or specially excepted by any order of the Government or local authority, and may do all things necessary for the maintenance and repair thereof and may—

Power of Panchayat as to roads, bridges and waterways.

- (a) lay out and make new roads ;
- (b) construct any bridge ;
- (c) widen, open, enlarge, or otherwise improve any road or bridge ;
- (d) divert, discontinue or close any road or bridge ;
- (e) deepen or otherwise improve waterways ; and
- (f) advise villagers as to the proper methods of management and control of cattle.

22. (1) Subject to such provisions as may be prescribed no person shall erect any building or reconstruct any building without the written permission of the Panchayat. Such permission shall not be refused except for the reason of the site being unsuitable on sanitary or village planning grounds.

Control of the erection of buildings.

(2) Permission shall be presumed to have been granted if its refusal is not communicated within a month of the receipt of the application for permission.

(3) Whenever any building is erected, altered, added to or reconstructed without such permission or in any manner contrary to the provisions prescribed under sub-section (1) or to any conditions imposed by the Panchayat, the Panchayat may—

- (a) direct that the building, alteration or addition be stopped, or
- (b) by written notice require such building, alteration or addition to be altered or demolished as it may deem necessary, or
- (c) withdraw the permission.

Prohibition of hotels, restaurants, tea shops, etc. and offensive or dangerous trades without licence.

23. (1) Subject to such provision as may be prescribed no place within the jurisdiction of a Panchayat shall be used as a hotel, restaurant, tea shop for any similar purpose or for the manufacture of tiles, bricks or lime or for the purpose of any other trade or business which the Government may, by notification, declare to be offensive, or dangerous, except under a licence from the Panchayat, and subject to such conditions as may be imposed in the licence and to such fees, if any, as may be prescribed.

(2) When a licensee fails to comply with any conditions imposed in the licence, the Panchayat may suspend or cancel his licence.

Powers as to sanitation and conservancy.

24. (1) If it appears necessary to improve the sanitary condition of any area within its jurisdiction, a Panchayat may, by a written notice, require the owner or occupier within a reasonable period, to be specified therein :—

- (a) to remove a hut or privy either wholly or in part ;
- (b) to construct in a building private drains therefor, or to alter, or to remove any private drains thereof;
- (c) to cause any land or building to be cleansed to the satisfaction of the Panchayat ;
- (d) where any land or building contains a well, pool, ditch, pit, pond, tank or any drain filth or stagnant water which is injurious to health or offensive to neighbourhood or is otherwise a source of nuisance, to cause the same to be filled up, cleansed or deepened or to cause the water to be removed therefrom or drained off or to take such other action as may be deemed necessary by the Panchayat;
- (e) to cause any land overgrown with vegetation, undergrowth, prickly-pear, or jungle which is in any manner injurious to health, or dangerous to the public or offensive to the neighbourhood or an impediment to efficient ventilation, to be cleared of the vegetation, undergrowth, prickly-pear or jungle;
- (f) to convert any step-well into a draw-well.

(2) If any work required under sub-section (1) is not executed within the period specified in the notice, the Panchayat may itself cause such work to be carried out, and may recover the cost of such work or part thereof from the owner or occupier referred to in sub-section (1) as if it were a tax imposed under section 35.

25. (1) For providing the area under its control or any part thereof, with a supply of water, proper and sufficient for public and private purposes, the Panchayat may— Powers to provide for proper water supply.

- (a) construct, repair and maintain tanks or wells, convert step-wells into draw-wells, and clean out streams or water-courses ;
- (b) purchase or acquire by lease or gift, any tank, well, stream or water course, or any right to take or convey water within or without the area under its control ;
- (c) with the consent of the owner thereof, utilise, cleanse or repair any tank, well, stream or water-course or provide facilities for obtaining water therefrom ;
- (d) contract with any person for a supply of water ; or
- (e) do any other acts necessary for carrying out the purposes of this section.

(2) The Panchayat may by order published at such places as it may think fit set apart for the supply to the public of water for drinking or culinary purposes, any tank, well, stream or water-course it has constructed, repaired or cleansed under clause (a) of sub-section (1) or which has been altered or in respect of which any right has been purchased or acquired by lease or gift under clause (b) of the said sub-section or any work has been done with the consent of the owner under clause (c) :

Provided that the Panchayat shall always fulfil the conditions of the consent given under clause (c) of sub-section (1).

(3) The Panchayat may, by order published at such places as it may think fit,

- (a) prohibit all bathing, washing of clothes and animals, or other acts calculated to pollute the water of any tank, well, stream or water-course set apart for drinking or culinary purposes under sub-section (2); and
- (b) prohibit during epidemics the use of any source of water supply for drinking or culinary purposes or for the washing of clothes.

26. (1) Any member, officer or servant of a Panchayat may enter into or upon any building or land, with or without assistants or workmen, in order to make any inspection or execute any work for any of the purposes of this Act: Power of entry.

Provided that—

- (a) no such entry shall be made between sunset or sunrise ;
- (b) unless the entry be with the consent of its occupier no dwelling house shall be so entered without giving reasonable previous notice signed by the Sarpanch or by a person duly authorised by him in this behalf of the intention to make such entry; and

(2) due regard shall be had in making entry into or upon any building or land and during the period of such entry to the social and religious usages of the occupants of the premises entered.

CHAPTER IV

SUBORDINATE AGENCIES AND JOINT COMMITTEES, OFFICERS AND SERVANTS

Appointment of Sub-Committees.

27. (1) A Panchayat may appoint, from among its members, Sub-Committees with delegated powers to dispose of matters relating to any particular branch of the administration which are reserved by this Act or the rules made thereunder for the decision of the Panchayat, or may appoint individual Panchas or Sub-Committees of Panchas to enquire into and report on any such matters.

(2) Subject to rules under this Act, it shall be lawful for the Panchayat, by a resolution supported by not less than one half of its sanctioned strength, to appoint as members of any Sub-Committee for such term as the Panchayat may specify any persons who are not Panchas and are not subject to any of the disqualifications mentioned in section 7, but who may in the opinion of such Panchayat, possess special qualifications or knowledge for serving on such Sub-Committees. The rules under this section shall specify the extent to which the provisions of the Act relating to the duties, powers and liabilities of Panchas shall be applicable to such persons.

Joint Committee.

28. (1) A Panchayat, with the sanction of the Government, may join with any District Board or Municipal or Town Committee, Cantonment Board or Authority, or Mines Sanitary Board, or with more than one such other local body in appointing out of their respective bodies a Joint Committee for any purpose in which they are jointly interested.

(2) The provisions of the District Board A'in of 1352 Fasli, in regard to Joint Committees constituted under Section 34 of that A'in shall, so far as may be, govern a Joint Committee in which a Panchayat may join under this section.

Officers and servants.

29. Subject to such conditions as may be prescribed, a Panchayat may employ such officers and servants, and assign to or provide for them such pay, allowances, gratuities, pensions, and contributions, as may be necessary.

Appointment of Executive Officer (Karbhari).

30. (1) The Deputy Collector shall, subject to such rules as may be made under this Act, appoint an Executive Officer (Karbhari), not being a Panch, for the Panchayat to perform such duties as are hereinafter specified and such other duties in connection with the Panchayat as may be prescribed—

(a) execution and implementation of the decisions of the Panchayat;

(b) looking after the proper discharge of all the duties, compulsory and discretionary, of the Panchayat;

- (c) exercise, subject to its control, all the powers on behalf of the Panchayat;
- (d) management, supervision and control the sale and purchase of commodities undertaken by the Panchayat ;
- (e) keeping accounts ;
- (f) submission of reports about the affairs of the Village Panchayat to the Deputy Collector after obtaining the approval of the Panchayat;
- (g) making report to the proper authorities concerned regarding crimes and offences within the village;
- (h) doing of all other acts in accordance with the decisions of the Panchayat or the Government or any authorities authorised by Government regarding the duties entrusted to the Panchayat ;
- (i) carrying out other duties for promoting the usefulness of the Village Panchayat ;
- (j) advise the Panchayat when necessary about the laws, rules and regulations concerning its working.

(2) The Executive Officer appointed under sub-section (1) shall be subject to the control of the Panchayat, and shall also be responsible to the Deputy Collector and the appointment, suspension and dismissal of the Executive Officer shall be made by the Deputy Collector. The allowance of the Executive Officer shall be determined by the Panchayat with the approval of the Deputy Collector and such allowance will be paid from the funds of the Panchayat.

(3) The Panchayat may recommend the suspension or dismissal of the Executive Officer to the Deputy Collector and in case the Deputy Collector does not approve of the recommendation of the Panchayat, it will be open to the Panchayat to appeal against the decision of the Deputy Collector to the Collector within thirty days of the decision of the former. The decision of the Collector shall be submitted to Government for confirmation. The orders of Government passed after considering the decision of the Collector shall be final.

31. The Government may appoint if it deem necessary one or more Inspectors for every Taluqa or group of Taluqas to discharge such functions as may be prescribed in this behalf in regard to the administration of Panchayat's work in Taluqa or group of Taluqas and such Inspectors shall be designated as Panchayat Inspectors. Appointment of Panchayat Inspectors.

CHAPTER V

THE PANCHAYAT FUND

32. (1) Subject to such rules as may be prescribed, there shall be formed for each Panchayat a 'Panchayat Fund' and there shall be placed to the credit thereof :—

- (a) Sums received by or on behalf of the Panchayat under this Act or otherwise ;

- (b) rents and profits accruing from the property which is or has been bought, constructed maintained from the Panchayat Fund or from property otherwise vested in the Panchayat or net profits received by the sale and purchase of controlled and uncontrolled commodities ;
- (c) subject to the provisions of this Act fines recovered from persons convicted of offences committed against this Act or the rules made thereunder, and all sums recovered on account of composition under this Act ;
- (d) grants and assignments of revenue and contributions made by Government, local authorities and private individuals including such share of the local cess and special rate collected in the village under sections 84 and 90 of the Hyderabad District Boards A'in of 1352 F., may be payable to the Panchayat under clause (c) of sub-section 2 of section 83 of the said A'in.
- (e) the amount or loan received by the Panchayat under sub-section (2) or sub-section (3).

(2) Every Village Panchayat will receive the amount equal to 15% of the land revenue of the village as a grant from the Government and it will receive the amount even though the Village Panchayat is entrusted to Rural Reconstruction Society or Co-operative Society under section 14 of this Act.

(3) This District Board or the Co-operative Society may subject to the law applicable thereto give loans to any Village Panchayat to carry out the duties and enforce the powers of the Panchayat.

Custody and investment of Panchayat Fund.

33. (1) The Panchayat Fund shall be vested in the Panchayat and shall be kept in such Government Treasury or Postal Savings Bank or Co-operative Society or other Bank approved by the prescribed authority, or in such manner as may be prescribed.

(2) A Panchayat may from time to time with the approval of the Government invest any portion of its fund in securities of the Government of Hyderabad or in such other securities including fixed deposits in Banks as the Government may approve in this behalf, and may vary such investments for others of a like nature; and the income resulting from the securities and the proceeds of the sale of the securities shall be credited to the Panchayat Fund.

Administration of and expenditure from Panchayat Fund.

34. The Panchayat Fund shall be administered by the Panchayat and the expenses incurred by the Panchayat in carrying out the purposes of this Act or rules thereunder shall be paid out of the Panchayat Fund :

Provided that all sums made over to or realised by a Panchayat for any specific purpose shall be applied solely for that purpose.

CHAPTER VI

IMPOSITION, ASSESSMENT AND COLLECTION OF TAXES AND THE BUDGET

35. Subject to rules made under this Act and with the previous approval of the Government, a Panchayat may impose in the whole or in any part of the area under jurisdiction any or all of the following taxes and fees :—

- (a) on the capital value of buildings situated in the village, the minimum tax on any buildings being four annas and the maximum Rs. 5 annually ;
- (b) on callings, trades and professions exercised in village, the maximum leviable on any person be Rs. 10 annually ;
- (c) fees for the occupation of cattle-stands, threshing floors, village sites and other similar communal lands or public places or parts thereof ;
- (d) fees for the use of cart-stands, markets, market site and slaughter-houses under the control of the Panchayat ;
- (e) fees for the occupation of *chaudis*, *sarais*, travellers' rest houses and other similar public buildings under the control of the Panchayat ;
- (f) a tax on the sale of goods other than newspapers not coming within the purview of the general sales tax ;
- (g) premises where industries carried on by the use of oil, steam or electrical energy ;
- (h) fees for the cleansing of private latrines.

36. In addition to or in lieu of any of the taxes or fees mentioned in section 35, a Panchayat may in the manner prescribed levy in the village, with the previous sanction of the Government, any other tax or fee which may be prescribed, except the tax or fees on the motor vehicles :

Provided that no tax or fee shall be imposed which is not specified in List II of the Seventh Schedule to the Constitution of India.

37. (1) No tax or fee shall be levied under sections 35 and 36, unless the proposal to levy it is sanctioned by a resolution of the Panchayat supported by not less than two-thirds of the total number of Panchas fixed under section 4 for that Panchayat, at a meeting specially convened for the purpose.

Taxes and fees not to be levied without resolution of Panchayat passed by a two-thirds majority.

(2) When sanction of the Government to levy any tax or fee in any village under this Act has been received, the Panchayat shall at once notify, in the prescribed manner, in the village in which the tax or fee is to be levied, the rate at which, and the date from which, such tax or fee is to be levied.

Variation
and exemp-
tion of taxes.

38. Any such tax or fee may be varied, suspended or cancelled within the prescribed limits by the Panchayat in the manner specified in sub-section (1) of section 37 and such variation, suspension or cancellation shall be notified in the manner laid down in sub-section (2) of that section.

Power of
Government
to make
rules.

39. The Government may make rules under this Act regulating the assessment of the taxes or fees leviable under sections 35 and 36, and such rules may provide for the prevention of evasion of payments, for the commutation of occasional taxes payable into an annual or periodical payment, and for fixing the fees payable for notices of demand.

Commuta-
tion by
Labour.

40. The Panchayat may, with the consent of the person from whom any tax or fee under sections 35 and 36 is leviable, commute the payment into a contribution of labour, not exceeding 18 days' labour in a year at such intervals, for such period of time and on such conditions as may be prescribed.

Recovery of
arrears of
taxes and
other dues as
land revenue
arrears.

41. Any arrears of any tax, fee or any other moneys claimable by the Panchayat under this Act or any fines imposed under this Act or the rules made thereunder, shall be recoverable by the Deputy Collector on the application of the Panchayat, as if they were arrears of land revenue.

Limitation
for recovery
proceedings.

42. No distraint shall be made and no proceeding instituted for the recovery of any sum due to a Panchayat under sections 35 and 36 of this Act after the expiry of five years from the date on which such sum became due.

Appeals.

43. An appeal against the assessment or levy of, or refusal to refund, any tax or fee under this Act shall lie in such manner as may be prescribed to the Deputy Collector and a second appeal from the decision of the Deputy Collector shall lie to the Collector whose decision shall be final.

Limitation
for appeals.

44. (1) No appeal shall lie under section 43, unless the appeal is preferred within 30 days from the date on which the demand for tax or fee is made, or on which the refund was refused, or on which the order against which the second appeal is preferred, was passed.

(2) The appellate authority may, before hearing an appeal against the assessment or levy of any tax or fee, require that the amount of such tax or fee as claimed by the Panchayat shall be deposited in his court.

(3) No objection shall be taken to any valuation, assessment, levy, or refusal to refund, nor shall the liability of any person to be assessed or taxed be questioned, in any other manner by any court or by any other authority than is provided in this Act.

Manner of
payment of
taxes and
penalty for
non-payment.

45. The taxes and fees due under this Act shall be paid in such manner as may be prescribed, and in case of default of such payment, one-fifth of the amount due may be levied by way of penalty.

46. A Panchayat may farm out the collections of the fees referred to in clauses (c), (d) and (e) of section 35 in the manner prescribed for any period not exceeding one year at a time on such conditions as it thinks fit : Farming of right to collect fees.

Provided that the lessee shall give security for the due fulfilment of the conditions of the lease.

46-A. (1) The Government may make rules under this Act regulating the refund of taxes and fees and such rules may impose limitations on such refunds.

(2) No refund of any tax or fee shall be claimable otherwise than in accordance with this Act and the rules made thereunder.

BUDGETS AND ACCOUNTS

47. Subject to such rules as may be prescribed, every Panchayat shall prepare a budget of estimated receipts and expenditure for the next official year and forward it to the Deputy Collector on or before the prescribed date. Annual Budget.

48. Every such budget shall be scrutinised and passed by the Deputy Collector with such modifications, if any, as he deems fit and a copy of it as modified shall be sent by him through the Collector to the Government. Scrutiny of budget.

48-A. No expenditure which is not provided for in the budget as passed shall be incurred without the previous sanction of the Deputy Collector.

49. Every Panchayat shall maintain such accounts as may be prescribed of all the receipts and expenditure of each year in the prescribed forms, all such accounts and the report of the administration of the preceding year shall be submitted by the Executive Officer (Karbhari) to the Panchayat for sanction, and all such accounts shall be examined and audited in such manner as may be prescribed. Accounts.

50. (1) In no case either the Panchayat or the Deputy Collector will authorise any expenditure in excess of the income of the Panchayat as estimated in the budget. Expenses and report of passed account and work and future programme

(2) Every Panchayat shall convene in such manner and at such time as prescribed, a meeting of all persons not below the age of 21 residing in the area within its jurisdiction at which the statements of the accounts of the Panchayat together with a report on the administration for the preceding year and the programme of the work prepared for the year following shall be read out and explained.

(3) Within a week after such meeting any suggestions in writing about the future programme may be made to the Secretary of the Panchayat which will also be forwarded to the Deputy Collector along with the budget forwarded under section 47.

**Abstract of
accounts.**

51. An abstract of every annual account of a Panchayat with such information and in such form or forms as may be prescribed along with the administration report of the preceding year, shall be forwarded by every Panchayat to the Deputy Collector not later than the end of the first month of the next financial year. The Deputy Collector shall draw up a combined statement and report for all the Panchayats under his jurisdiction in such manner as may be prescribed, and forward it to the Government in the Local Government Department through the Collector.

CHAPTER VII

CONTROL

**Power to
dissolve Pan-
chayat.**

52. Government may at any time on the recommendation of the Deputy Collector dissolve any Panchayat for incapacity persistent neglect of duty or gross excess or abuse of its power whereupon the members of the Panchayat shall cease to be its members and the Government may order a fresh Panchayat to be constituted in accordance with the Act and if the new Panchayat is incompetent to perform or persistently neglects its duties, makes default in the performance of such duties or grossly exceeds or abuses its powers, the Government shall dissolve the Panchayat for such period as it may deem fit and establish in its place a new Panchayat which shall consist of such Panchas as may be nominated by Government.

**Division
Panchayat
Officer.**

53. The Deputy Collector will be the Panchayat Officer of the division of the district within his jurisdiction and shall discharge all or any of the functions entrusted under this Act or the rules thereunder.

53-A. (1) The Government may appoint Special Panchayat Officers for the State or for any part thereof and may invest such officers with any of the powers of the Collector under this Act or with any powers that may be prescribed.

(2) The Government may frame rules to regulate the relations of such officers to Revenue Officers in the area for which they are appointed, the salaries to be paid to them and the establishment to be entertained by them.

(3) The cost of the pay and allowances of any such officer and of his establishment and office shall be borne by the general revenues of the State.

**Delegation of
powers of the
Government
to others.**

54. The Government may, either by name or by virtue of office authorise by notification in the *Gazette*, any Collector or Special Panchayat Officer or any other person to exercise in any local area with regard to any Panchayat or to any class of Panchayats or to all the Panchayats in that area, all or any of the powers of the Government, except the power to make rules.

**Inspection of
property or
work.**

55. (1) Any gazetted officer of the Revenue Department, any Panchayat or Special Panchayat Officer and any gazetted officer of the Co-operative or Public Health or Supply

Departments shall, in respect of any Panchayat within the area subject to his jurisdiction, have power at all times--

- (a) to enter on and inspect or cause to be entered on and inspected, any immovable property occupied by, or any work in progress under the orders of, or any institution controlled by a Panchayat;
- (b) to call for and inspect, for the purposes of this Act, any document which may be in the possession or under the control of a Panchayat; and
- (c) to require the Panchayat to furnish such statements, accounts and reports as may be prescribed.

(2) Nothing in this section shall be deemed to affect any powers of inspection and control which, in respect of any Rural Reconstruction Society deemed under section 14 to be a Panchayat, any officer of the Co-operative Department may hold otherwise.

56. The following may be visitors of a Panchayat :—

**Visitors of
Panchayat.**

(1) All the members of the Hyderabad Legislative Assembly, if any, residing in the District in which the Panchayat is situated.

(2) Such non-officials as may be appointed by the Government or by the body or authority empowered in this behalf by the Government.

57. (1) When a Deputy Collector is informed on complaint made or otherwise that any Panchayat in his jurisdiction has made default in performing any duty under this act and is satisfied, after enquiry, that the Panchayat has been guilty of the alleged default or any other default revealed in the course of the enquiry, he may, by an order in writing, fix a period for the performance of that duty.

**Power to
provide for
performance
of duties in
default of
Panchayat.**

(2) If that duty is not performed within the period so fixed the Deputy Collector may appoint some person to perform it, and may direct that the expense of performing it, and a reasonable remuneration to the person appointed to perform it, shall be forthwith paid by the Panchayat.

(3) If the expense and the remuneration are not so paid, the Deputy Collector who issued the direction may make an order directing the person having the custody of the balance of the Panchayat fund to pay the expense and remuneration, or as much thereof as is possible, from that balance.

(4) A copy of any order passed by the Deputy Collector under sub-section (1), (2) or (3) shall be sent to the Collector as soon as it is passed and it shall be within the discretion of the Collector to rescind or to modify the order.

58. (1) If, in the opinion of the Collector or Deputy Collector, the execution of any order or resolution of a Panchayat under his jurisdiction, or the doing of any act which about to be done, or is being done, in pursuance of or

**Power to
suspend ex-
ecution of
order.**

under colour of this Act, is likely to cause injury or annoyance to the public or to any class or body of persons or to lead to a breach of peace, he may by order in writing suspend the execution or prohibit the doing thereof.

(2) When the Deputy Collector makes any order under this section he shall forthwith forward to the Collector a copy of the order with a statement of his reasons for making it, and it shall be in the discretion of the Collector to rescind the order or to direct that it shall continue in force, with or without modification, permanently, or for such period as he thinks fit.

Extraordinary powers of Collector and Deputy Collector in cases of emergency.

59. (1) In cases of emergency the Collector or Deputy Collector may provide for the execution of any work, or the doing of any act which a Panchayat in the area subject to his jurisdiction is empowered to execute or do, and the immediate execution or doing of which, in his opinion, is necessary for the safety of the public. He shall forthwith communicate his order with the reasons therefor to the Panchayat.

(2) The officer who makes any provision under sub-section (1) may appoint any person for the execution of the same, and may direct that the expense of executing the work or doing the act, with the reasonable remuneration to the person appointed to execute or to do it, shall be forthwith paid by the Panchayat.

(3) If the expense and the remuneration are not so paid, the officer who has issued the order, may make an order directing the persons having the custody of the balance of the Panchayat Fund to pay the expense and remuneration, or as much thereof as is possible, from that balance.

(4) The Deputy Collector shall forthwith report to the Collector every case in which he uses the powers given to him by this section.

Appeal.

60. Save as otherwise prescribed by this Act and the rules made thereunder an appeal shall lie from an order of—

- (a) the Panchayat within thirty days of the order, to the Deputy Collector within whose jurisdiction the Panchayat has been constituted; and
- (b) the Deputy Collector to the Collector, and shall be preferred within 30 days of the date of publication or communication of the order. The decision of the Collector shall be final.

Disputes.

61. (1) If a dispute arises between two or more Panchayats of different Taluqs within the same district the matter shall be referred to the Collector and the decision of the Collector shall be final.

(2) If a dispute arises between two or more Panchayats in different districts the matter shall be referred to the Government or to any other authority empowered by the Government in this behalf for decision. The decision of the Government or of the authority so empowered shall be final.

62. (1) In all matters connected with this Act, unless it is otherwise provided for in the Act or the rules made thereunder, the Government shall have and exercise over Collectors, and the Collectors and Deputy Collectors shall have and exercise over the officers subordinate to them, the same authority as they respectively have and exercise over them in the general and revenue administration.

Government's power of General control over Revenue Officers and to enforce order in case of default at the cost of the Panchayat.

(2) In all matters connected with this Act, if a Panchayat makes default in carrying out any order made by the Government or by any authority other than the Panchayat in the exercise of any of the powers conferred by this Act or any rule made thereunder, the Government or such authority shall have all the power necessary for the enforcement of such order at the cost of the Panchayat.

63. (1) In addition to any power of making rules conferred by this Act, the Government may make rules generally for the purpose of carrying into effect all or any provision of this Act.

Power to make rules.

(2) A rule may be general for all Panchayats (including Nyaya Panchayats) or may be special for the whole or any part of the area, subject to the jurisdiction of any one or more Panchayats (including Nyaya Panchayats) as the Government may direct.

(3) In making any rule, the Government may direct that a breach thereof shall be punishable with fine which may extend to ten rupees, and, when the breach is a continuing breach, with a further fine which may extend to one rupee for every day after the first, during which the breach is proved to have been persisted in. Such fines shall be levied by an order of the Panchayat and shall then be recoverable under section 41.

CHAPTER VIII

MISCELLANEOUS

64. (1) If, after giving the Panch concerned or the Executive Officer (Karlhari) a sufficient opportunity for showing cause to the contrary, the Collector is satisfied that the loss, waste or misapplication of any money or other property owned by or vested in a Panchayat is a direct consequence of misconduct or gross neglect on the part of the said Panch or such officer the Collector may, by order in writing direct the Panch or such officer to pay to the Panchayat, before a date fixed, the amount required to reimburse it for such loss, waste or misapplication, unless the Panch or such officer proves that he acted honestly with due care and attention.

Liability of Panch, Executive Officer for loss, waste or misapplication of property.

(2) If the amount is not so paid, the Deputy Collector shall cause it to be recovered as an arrear of land revenue and credited to the Panchayat Fund.

(3) An appeal shall lie within 30 days from any decision of the Collector under this section to the Government whose decision shall be final.

Prohibition
of legal pro-
ceedings
against Pan-
chayat or its
member,
officer, ser-
vant or agent.

65. (1) No suit or other legal proceedings shall lie against any Panch, Officer, servant or agent of a Panchayat acting under its direction, in respect of anything done in good faith under this Act or any rule made thereunder.

(2) No Civil Court shall entertain a suit arising out of or connected with any matter including matters connected thereunder in relation to which this Act or any rule made thereunder provides that the decision of any authority shall be final.

Institution of
legal procee-
dings against
Panchayat
member, offi-
cer, servant,
or agent and
bar on certain
suits.

66. (a) In matters not covered by sub-section (2) of section 65 no civil suit shall lie against any Panchayat or any member, officer, servant or agent thereof acting under its direction in respect of any act purporting to be done in an official capacity until the expiry of two months after notice in writing has been left or delivered at its office or his office or place of residence as the case may be. The notice shall state the name and place of residence of the plaintiff the cause of action and the reliefs that he claims and the plaint shall contain a statement that such notice has been so delivered or left.

(b) Every such suit shall be dismissed unless it is instituted within six months after the accrual of the alleged cause of action, and the service of such notice as is provided in clause (a) is admitted or proved.

(c) When the suit is against a member, officer, servant or agent of a Panchayat, the Deputy Collector shall determine whether the defence of the suit should be undertaken by the Panchayat and paid for out of the Panchayat Fund.

Punishment
for obstruct-
ing Pancha-
yat or its
agent.

67. Whoever obstructs or molests a Panchayat or any Panch thereof, or any person employed by it or him, or any person with whom it or he has contracted in the performance of its or his duty, under the provisions of this Act or of any rule made thereunder, or prevents or tries to prevent any person from doing anything which he is empowered or required to do by virtue of this Act, or removes any mark set up for the purpose of indicating any level or direction incidental to the carrying out of any work authorised by this Act, or removes, destroys, or defaces or otherwise obliterates any notice put up or exhibited by a Panchayat or under its authority, shall be liable on conviction to a fine not exceeding fifty rupees.

Offences and
their punish-
ment.

68. Whoever—

(a) erects, alters, adds to or reconstructs a building without the written permission required by section 22 or in contravention of any of the conditions imposed by the said section ; or

(b) commits any offence under section 23 or 25 or any other section of this Act or such rules made thereunder as are notified as being punishable under this section ;

shall save as otherwise provided be liable to be punished with fine which may extend to Rs. 50. He shall be also liable to a further fine which may extend to Rs. 5 for each day after conviction during which he is proved to have persisted in the offence.

The Panchayat may order the expenses of prosecution for offences specified in the preceding clauses of this section or any other proceedings in connection therewith to be paid out of the Panchayat Fund.

No prosecution for an offence under this Act or the rules thereunder shall be instituted except within six months of the commission of such offence.

69. (1) A Panchayat may accept by way of compensation a sum of money not exceeding Rs. 50 from any person who, in the opinion of the Panchayat, has committed any of the offences specified in section 69, and on such compromise no proceeding shall be taken or continued against such person in respect of such offence. Power to compound offences.

(2) All fines imposed under this Act or the rules framed thereunder shall save as otherwise provided be recovered and credited to the Panchayat Fund.

70. (1) Nothing contained in this Act shall preclude the institution by the Panchayat of a suit for any amount due under this Act which may be also recovered as an arrear of land revenue. Suit or recovery of dues assessment, etc., not to be questioned.

(2) No assessment or demand made and no charge imposed under the authority of this Act shall be questioned or affected by reason of any clerical error or of any mistake in respect of the name, residence or occupation of any person or the description of any property or thing or the amount assessed, demanded or charged, provided that the provisions of this Act have been in substance and effect complied with.

71. All notices given or issued under the provisions of this Act shall be in writing. Notice shall be in writing.

72. Whenever a Panchayat shall have set apart any place for any purpose authorised by this Act or shall have prohibited the doing of anything in any place, the Sarpanch shall forthwith cause to be put up a notice in the principal local language of the village at or near such place. Such notice shall specify the purpose for which such place has been set apart or the act prohibited in such place. Notice of prohibition or setting apart of places.

73. (1) When any notice or other document is required by this Act or by any rule or order made under it to be served or sent to any person, the service or sending thereof may be effected— Method of serving document.

(a) by giving or tendering the said document to such person; or

- (b) if such person is not found, by leaving such document at his last known place of abode or business, or by giving or tendering the same to some adult member or servant of his family; or
- (c) if such person does not reside in the village and his address elsewhere is known to the Sarpanch or secretary by sending the same to him by registered post; or
- (d) if none of the means aforesaid be available, by fixing the same in some conspicuous part of such place of abode or business or publishing in any newspaper circulating in the area concerned.

(2) When the person is an owner or occupier of any building or land, it shall not be necessary to name the owner or occupier in the document, and in the case of joint owners and occupiers, it shall be sufficient to serve it on, or send it to any one of such owners or occupiers.

(3) Whenever in any bill, notice or other document served or sent under this Act a period is fixed within which any tax or other sum is to be paid or any work executed, or anything provided, such period shall, in the absence of an express provision to the contrary be calculated from the date of such service or sending.

Panch and
Officer of the
Panchayat to
be public
servant.

74. Every Panch and every Secretary, Officer and servant maintained by or employed under a Panchayat constituted under this Act shall be deemed to be a public servant as defined in section 144 of the Hyderabad Penal Code.

Management
of forest.

75. (1) The Government may subject to such conditions as may be prescribed, and subject to any law relating to forests for the time being in force, upon the recommendation of the Deputy Collector and the Collector transfer to any Panchayat the management and maintenance of a forest adjacent to the boundaries of its jurisdiction.

(2) The Government may order any expenses of such management or maintenance or a portion of income of such forest to be given to the Panchayat for the work undertaken or done under sub-section (1).

Records to be
open to
inspection.

76. Subject to rules made under this Act and to the payment of such fees as may be prescribed the records of the Panchayat and its Sub-Committees and the reports of the Sub-Committees shall be open to inspection to such persons of village as may desire to inspect and certified copies thereof shall be given to such persons as may apply for them :

Provided that no inspection shall be allowed of confidential records, if any.

Special
allowance.

77. No Panch shall receive any remuneration or allowance for his services in the Panchayat unless some special duty is entrusted to him and the Panchayat by the majority of two-thirds of its voting members, with the approval of the Deputy Collector, sanction such allowance or remuneration.

78. No Panch, employee of a Panchayat or any officer having any duty to perform in connection with the sale of movable or immovable property under this Act shall directly or indirectly bid for or acquire interest in any property sold at such sale. Bidding Prohibited.

78-A. (1) When, during the term of the Panchayat the limits of a village are altered, the Collector may, by order in writing, dissolve such Panchayat and direct a Panchayat— Dissolution and reconstitution of Panchayat on alteration of limits of village.

(i) to be reconstituted for the village of which the Panchayat has been dissolved; or

(ii) to be established for a village which has been newly declared.

The members of the Panchayat which has been dissolved shall vacate their office from the date specified in the order.

(2) The Panchayat reconstituted or established under the provisions of sub-section (1) shall consist of such members, either elected or appointed in such manner as the Collector shall, by order in writing, direct.

The Sarpanch and Deputy Sarpanch of the Panchayat so reconstituted or established shall be elected in the manner provided in this Act.

(3) The term of the Panchayat so reconstituted or established shall be for such period, not exceeding one year, as the Collector shall, by order in writing, specify.

(4) On the expiry of the term of the Panchayat in accordance with the provisions of sub-section (3), the Panchayat shall be constituted in the manner provided by this Act.

78-B. (1) When a Panchayat has been dissolved and reconstituted or established under section 78-A, so much of the village fund and other property vesting in the Panchayat which has been dissolved shall vest in, and such portion of the debts and obligation shall be transferred to the reconstituted or established Panchayat, as the Collector may, by order in writing, direct. Vesting of property, etc. of Panchayat which has been dissolved in reconstituted or established Panchayat.

(2) The rights and liabilities of the Panchayat which has been dissolved in respect of contracts, agreements and other matters or things arising in or relating to any part of the area subject to the authority of the reconstituted or established Panchayat shall vest in such Panchayat.

(3) Any notice, tax, order, licence, permission or rule made, issued or imposed in respect of any part of the area subject to the authority of the reconstituted or established Panchayat shall be deemed to have been made, issued or imposed by or in respect of such Panchayat, unless and until it is superseded by any notice, tax, order, licence, permission or rule made, issued or imposed by or in respect of such Panchayat.

Effect of
area ceasing
to be a
village.

78-C. On any area ceasing to be a village by the Government issuing a notification to that effect—

- (a) the Panchayat shall be dissolved and all members of the Panchayat shall vacate office as from the date of the notification ;
- (b) the unexpended balance of the village fund and the property vesting in the Panchayat shall vest in the District Board, to be utilised for the benefit of the inhabitants of the area as the District Board may think fit.

CHAPTER IX

CONSTITUTION, POWERS AND CONTROL OF NYAYA PANCHAYAT

Nyaya Pan-
chayat.

79. (1) Subject to rules under this Act the Government may establish Nyaya Panchayats for the administration of civil and criminal justice in such villages as it may by notification declare.

(2) Such a Nyaya Panchayat shall be known by the name of the village in which it is established.

Constitution.

80. (1) Every Nyaya Panchayat of a village shall consist of not less than three and not more than six Panchas who shall be selected by the Collector on the recommendation of the Deputy Collector from amongst the Panchas of the village Panchayat established for the village.

(2) The Government shall direct that such Nyaya Panchayat may exercise all or any of the judicial powers which may be conferred on it under this Act :

Provided that the Government may at any time, by notification in the *Gazette*, withdraw all or any of the judicial powers conferred on a Nyaya Panchayat if, in the opinion of the Government, such Nyaya Panchayat has been incompetent in the exercise of, or has been guilty of the abuse of, is otherwise unsuitable for exercising the said powers.

(3) Save as herein provided the term of office of the members of such Nyaya Panchayat shall be co-extensive with the term of their office as the members of the Panchayat.

(4) If any vacancy arises in the office of any of the members of such Nyaya Panchayat, it shall be filled by selection in the manner prescribed. The member so selected shall hold office so long only as the member in whose place he has been selected would have held office if the vacancy had not occurred.

(5) Out of the members so selected two members shall form a quorum.

(6) Save as provided in this Act, the Government may make rules to regulate—

- (a) the conduct and distribution of business, and the practice before a Nyaya Panchayat;

- (b) the times and places at which the Nyaya Panchayat shall sit;
- (c) any other matter which in the opinion of the Government may be necessary for the conduct of proceedings before a Nyaya Panchayat.

81. Every Nyaya Panchayat shall have a Chairman. The Chairman shall be elected by the Nyaya Panchayat, from amongst the members of the Nyaya Panchayat and the term of office of the Chairman of such Nyaya Panchayat shall be co-extensive with the term of the Nyaya Panchayat provided he continues to be a Panch during such term.

82. The Executive Officer (Karbhari) of a Panchayat shall act as the judicial clerk of the Nyaya Panchayat for the purpose of recording its proceedings and decisions and doing such other duties as may be prescribed.

83. (1) The Collector, if he thinks fit, may remove any member selected on the Nyaya Panchayat after giving him an opportunity of being heard and after such inquiry as the Collector deems necessary, if in the opinion of the Collector such member has been guilty of misconduct in the discharge of his duties or of any disgraceful conduct or neglects or refuses to perform or has been incapable of performing any of the duties as a member of the Nyaya Panchayat or is otherwise unsuitable for the performance of such duties.

(2) If any inquiry is held under sub-section (1) the Collector may suspend such member from being on the Nyaya Panchayat for such period as he thinks fit.

(3) The removal or suspension of such member under sub-section (1) or (2) shall not by reason of that fact alone disqualify him from being a member of a Panchayat.

(4) A person removed from a Nyaya Panchayat under sub-section (1) shall not be eligible for reselection on such Nyaya Panchayat.

84. Every suit or case of the nature specified in section 85 or 87, pending in any court and cognizable by a Nyaya Panchayat empowered under section 80 and all proceedings arising from and incidental to any such suit or case shall be tried, heard and determined by such court or any other court having jurisdiction to try, hear and determine the same, as if this Act had not been passed.

85. (1) Save as otherwise provided in section 86, power to try all or any of the following suits may be conferred on Nyaya Panchayat under section 80, namely :—

- (a) suits for money due on contracts, not affecting any interest or involving any question as to an interest in immovable property but not including suits for rent of agricultural land ;
- (b) suits for the recovery of movable property or for the value of such property ;

- (c) suits for compensation for wrongfully taking and injuring movable property, where the amount or value of the claim does not exceed twenty-five rupees.

(2) With the written consent of both the parties, recorded in the presence of the Nyaya Panchayat, suits of the nature described in sub-section (1), but the value of which does not exceed one hundred rupees, shall be triable by such Nyaya Panchayat.

(3) The Government may, by notification in the Gazette direct that any Nyaya Panchayat may try any suit of the nature described in sub-section (1), up to such value as may be specified in the notification not exceeding one hundred rupees.

Suits not triable by Nyaya Panchayat.

86. No suit shall be brought before any Nyaya Panchayat—

- (i) on a balance of partnership account;
- (ii) for a share or part of a share under any intestacy, or for a legacy or part of a legacy under a will;
- (iii) by or against the Government or any "local authority" or an officer or servant of the Government or a member, officer or servant of a local authority in his official capacity ;
- (iv) by or against a minor or a person of unsound mind ;
- (v) on account of any dispute or matter in respect of which any suit or application would be cognizable by a Revenue Court; and
- (vi) on account of any matter in respect of which any suit or application would be cognizable by a Board for the settlement or adjustment of debts.

Offences cognizable by Nyaya Panchayat.

87. Power to take cognizance of and try all or any of the following offences may be conferred on Nyaya Panchayat under section 80, namely :—

(a) Under the Hyderabad Penal Code—

Act V of
1324 F.

Section

Negligently doing any act known to be likely to spread the infection of any disease dangerous to life	211
Fouling the water of a public spring or reservoir	213
Causing danger, obstruction or injury to any public way	223
Voluntarily causing hurt	263
Assault or use of criminal force otherwise than on grave and sudden provocation	292

	Section
Assault or use of criminal force on grave and sudden provocation.	296
Theft, where the value of the property stolen does not exceed Rs. 20	315
Mischief when the loss or damage caused does not exceed Rs. 20 in value	359
Criminal trespass	376
House trespass	377
Dishonestly breaking open or unfastening any closed receptacle containing or supposed to contain property	390
Intentional insult, with intent to provoke a breach of the peace	136
Provided that no offence of theft shall be cognizable by any Nyaya Panchayat unless an accused person has been either apprehended or recognized and named.	
(b) Under the Prevention of Cruelty to Animals Act I of 1313 F.—	
Killing or treating animals with unnecessary cruelty	3 and 4
Employing animals unfit for labour	5
Baiting or inciting animals to fight	5a
Permitting diseased animals to go at large or to die in public places	5b
(c) Under the Hyderabad Cattle Trespass Act, V of 1327 F.	
Forcibly opposing the seizure of cattle or rescuing the same	21(1)
(d) Under the Hyderabad Compulsory Primary Education Regulation, 1365 Hijri—	
Disobedience of order of the Magistrate for sending a child to school	13
Employing a child liable to compulsory education	14
(e) Under the Hyderabad Vaccination Rules, 1334 F.—	
Neglecting to produce a child for vaccination or for medical examination after vaccination	Rule 16(1) (a).
Neglecting to produce a medical certificate of successful vaccination	Rule 16(1) (b).
Refusing to give information or deliberately giving false information about an unprotected child	Rule 16(1) (c)
For continuing for a month the neglect or default of order under rule 16	Rule 17
(f) Breaches of rules made punishable under this Act.	

Certain persons accused of theft not to be tried by Nyaya Panchayat.

88. No Nyaya Panchayat shall take cognizance of any offence of theft punishable under section 315 of the Hyderabad Penal Code in which the accused—

- (a) has been previously convicted of an offence punishable, under Chapter VII or Chapter XVI of the Hyderabad Penal Code, with imprisonment of either description for a term of three years or upwards; Act V of 1324 F.
- (b) has been previously fined for theft by any Nyaya Panchayat ;
- (c) is a registered member of a criminal tribe under section 4 of the Hyderabad Criminal Tribes Act, 1322 F.; or Act VII of 1322 F.
- (d) has been bound over to be of good behaviour in proceedings instituted under section 105, or section 106 of the Code of Criminal Procedure 1313 F. Act IV of 1313 F.

Offences by or against public servant not cognizable by Nyaya Panchayat.

89. No Nyaya Panchayat shall take cognizance of any offence specified in section 87 in which either the complainant or the accused is a public servant serving in the district in which the village for which the Panchayat is established is situated :

Provided, however, that a Nyaya Panchayat shall not be debarred from taking cognizance of an offence for a breach of a rule notwithstanding that the complainant in the cases is a public servant.

Conviction by a Nyaya Panchayat not a previous conviction.

90. A conviction by a Nyaya Panchayat under this Act shall not be deemed to be a previous conviction for the purposes of section 32 of the Hyderabad Penal Code.

Act V of 1324 F.

Maximum Penalties.

91. (1) The following are the maximum penalties which may be inflicted by a Nyaya Panchayat for the offences mentioned in section 87—

- (a) under the Hyderabad Penal Code—fine not exceeding Rs. 25 or double the amount of the loss or damage caused up to a limit of Rs. 50;
- (b) under the provisions of the Prevention of Cruelty to Animals Act, 7, 1313 Fasli, mentioned in section 87—fine not exceeding Rs. 20;
- (c) under section 21 (1) of the Hyderabad Cattle Trespass Act V, 1337 Fasli—fine not exceeding Rs. 10;
- (d) under Rules 13 and 14 of the Hyderabad Compulsory Education Regulation, 1365 Hijri—fine as provided in those rules;
- (e) under rules 16 and 17 of the Hyderabad Vaccination Rules, 1334 Fasli—Fine as provided in those rules;
- (f) for a breach of a rule made punishable under this Act—fine not exceeding Rs. 50 or Rs. 5 a day for a continuing breach as provided in section 68.

(2) No sentence of imprisonment, whether substantive or in default of fine or of whipping shall be inflicted by a Nyaya Panchayat.

92. The Government may empower, by a notification in the *Gazette* a Nyaya Panchayat to inflict the following maximum penalties :—

Power of Govt. to empower particular Nyaya Panchayat.

- (a) under the sections of the Hyderabad Penal Code mentioned in section 87—fine not exceeding Rs. 50 or double the amount of the damage or loss caused, whichever is greater;
- (b) under the provisions of any other Act, Rules and Regulations mentioned in section 87 excluding rules referred to in clause (f) sub-section (1) of section 91—fine not exceeding Rs. 50 but subject to the maximum punishment provided in the respective provisions.

93. In inflicting any fine under section 91 or section 92 the Nyaya Panchayat may direct that the whole or any portion of the fine recovered shall be applied—

Compensation to complainants.

- (a) towards defraying the expenses properly incurred in the case by the complainant, or
- (b) in giving compensation to a person for any material loss or damage caused to him by reason of the commission of the offence.

94. Save as otherwise provided all moneys realised on account of fines shall remain credited to the Panchayat fund established under section 32 of this Act.

Fines to be credited to Nyaya Panchayat Funds.

95. If a Nyaya Panchayat is satisfied, after enquiry that a case brought before it is false, frivolous or vexatious, such Nyaya Panchayat may order the complainant to pay the accused such compensation, not exceeding Rs. 5, as it thinks fit.

Compensation to accused for false or frivolous case.

96. Instead of passing any sentence, a Nyaya Panchayat may discharge, after due admonition, a youthful offender who, in the opinion of such Nyaya Panchayat is, at the time of conviction of the offence, under the age of sixteen years.

Youthful offenders.

97. (1) When a Nyaya Panchayat convicts a person, other than a youthful offender referred to in section 96, against whom no previous conviction is proved, it may, if it considers his release on probation of good conduct expedient, require him to execute within such time as it may appoint a bond for a sum not exceeding fifty rupees, with or without sureties, binding himself not to commit any offence referred to in section 87 for a period not exceeding twelve months.

First offenders.

(2) The amount of such bond, if forfeited, shall be recoverable by the Nyaya Panchayat as if it were a fine imposed under this Chapter.

98. No member of a Nyaya Panchayat who is a party to, or has any interest in, any suit or case shall sit on the Nyaya Panchayat while it is trying such suit or case.

Members interested not to sit on Nyaya Panchayat.

Any dispute as to whether a member of a Nyaya Panchayat is a party to or interested in a suit or case shall, on a written application of a party to such suit or case, be referred to the Deputy Collector or such officer as he may authorise in this behalf for decision. The decision of the Deputy Collector or such officer shall be final.

Res judicata
and pending
suits and
cases.

99. (1) No Nyaya Panchayat shall try any suit or issue in respect of any matter which is pending for decision in, or has been heard and decided by, a Court of competent jurisdiction in a previously instituted suit between the same parties or those under whom they claim.

(2) Where an accused person has been tried for any offence, no Nyaya Panchayat shall take cognizance of such offence or, on the same facts, of any other offence of which the accused might have been charged or convicted.

Suits to in-
clude whole
claim.

100. Every suit instituted before a Nyaya Panchayat shall include the whole of the claim which the plaintiff is entitled to make in respect of the matter in dispute but he may relinquish any portion of his claim in order to bring the suit within the jurisdiction of the Nyaya Panchayat.

If a plaintiff intentionally omits to sue in respect of or relinquishes any portion of his claim he shall not afterwards sue in respect of the portion so omitted or relinquished.

Limitation
for suits and
cases.

101. (1) No suit shall be entertained by a Nyaya Panchayat after the expiration of one year when the right to sue first accrued.

(2) No case shall be cognizable by a Nyaya Panchayat after the expiration of one month from the date on which the offence was committed.

Nyaya Pan-
chayat before
which suits to
be instituted.

102. Every suit under this Act shall be instituted before the Nyaya Panchayat of the village in which the defendant or each of the defendants, where there are more than one, ordinarily resides at the time of the institution of the suit, irrespective of the place where the cause of action arose.

Nyaya Pan-
chayat before
which cases
to be insti-
tuted.

103. Every case under this Act shall be instituted before the Nyaya Panchayat of the village in which the offence was committed.

Return of
complaints.

104. Any magistrate upon receiving a complaint of facts constituting an offence cognizable by a Nyaya Panchayat shall, unless reasons to the contrary be shown to the satisfaction of the magistrate, return the complaint for presentation to the Nyaya Panchayat having jurisdiction to try the same.

Bar of juris-
diction of
Courts in
suits and
cases.

105. Notwithstanding anything contained in any law for the time being in force, no court, subject to the provisions of section 104, shall entertain any suit specified in section 85, or take cognizance of any offence specified in section 87, unless and until the District Court or magistrate, as the case may be, has passed an order in writing under section 130 or 140.

106. A Nyaya Panchayat newly constituted on the expiry of the term of office of the members of another Nyaya Panchayat or a Nyaya Panchayat newly constituted on the dissolution of another Nyaya Panchayat under section 111, shall hear and dispose of all suits, cases and proceedings pending before the latter at the date of the expiry of such term or at the date of such dissolution :

Pending cases before Nyaya Panchayat when term of office has expired.

Provided that the hearing of such suits, cases and proceedings shall commence anew before the Nyaya Panchayat newly constituted, as if such suits, cases and proceedings were instituted before it.

107. Whenever a Nyaya Panchayat is established or dissolved in any manner or there is a change in the limits of its jurisdiction, powers or name, the Government shall as prescribed proclaim the fact through the Local Government section of the District Office in such manner as may be prescribed and inform the Deputy Collector, the District and Sessions Judge, the District Superintendent of Police and the Chief Panchayat Officer.

Establishment, disestablishment etc., of Nyaya Panchayat to be made known.

108. Every Nyaya Panchayat shall have a seal in accordance with the prescribed pattern bearing its name, the name of the tahsil and district in which it is established and shall therewith seal all decrees, orders, proceedings, processes, receipts and copies issued by it.

Seal of Nyaya Panchayats.

109. The Government may fix the number of clerical and other staff to be employed by a Nyaya Panchayat and regulate the conditions of their service by rules made under this Act.

Staff of Nyaya Panchayat.

110. (1) The Government may authorise any officer or class of officers to inspect Nyaya Panchayats and instruct them in the performance of their duties :

Power to instruct Nyaya Panchayat.

Provided that no such officer shall inspect the records of cases disposed of by or pending before a Nyaya Panchayat.

(2) The Government shall prescribe the channel through which and the authority to whom the reports of such inspections shall be submitted.

111. (1) When a Panchayat is dissolved under this Act, the Nyaya Panchayat constituted in the village for which the Panchayat was established or where all the judicial powers of a Nyaya Panchayat have been withdrawn under the proviso to sub-section (2) of section 80 such Nyaya Panchayat shall be deemed to have been dissolved and all members of the Nyaya Panchayat shall vacate office as from the date of dissolution or the withdrawal of judicial powers as the case may be.

Effect of dissolution of Panchayats or of withdrawal of judicial powers of Nyaya Panchayats on Nyaya Panchayats and proceedings pending before them.

(2) On the dissolution of the Nyaya Panchayat under sub-section (1)—

(i) the provisions of sub-sections (2) and (3) of section 140, shall be deemed to apply in respect of any suits or cases pending before the Nyaya Panchayat as

- if the District Court or District Magistrate, as the case may be, had passed an order under sub-section (1) of section 140, quashing such suits or cases; and
- (ii) all pending proceedings and applications for the execution of decrees or orders in suits, and for the recovery of fines and compensation in cases shall be transferred to the Civil Court or the Court of the Magistrate, as the case may be, which would have had jurisdiction to try the suit or case if the Nyaya Panchayat had not been constituted and such Court shall deal with the proceedings or applications as if the suit or case out of which the proceedings or applications arose, had been heard and decided by such Court.
- (3) If any local area is excluded from a village and no Panchayat is constituted for the area so excluded the provisions of sub-section (2) shall, so far as may be, apply in respect of any suits, cases, proceedings or applications which may be pending before the Nyaya Panchayat in respect of the said area, as if, so far as such suits, cases, proceedings and applications are concerned, the Nyaya Panchayat had been dissolved.

CHAPTER X

PROCEDURE OF PANCHAYATS IN SUITS AND CASES

Suits and cases how instituted.

112. (1) Any person who wishes to institute a suit or case under this Act before a Nyaya Panchayat shall make an application orally or in writing to the Chairman or during his absence from the village to such other member of the Nyaya Panchayat as the Chairman may appoint in this behalf and shall at the same time pay the prescribed fees.

(2) The Government may also prescribe fees for other applications filed before the Nyaya Panchayat and for processes issued by it and rules made in pursuance of sub-sections (1) and (2) shall state whether the fees are to be paid in cash or in Court fee stamps.

Substance of application to be recorded.

113. The substance of the application shall be recorded without delay in the prescribed register and the signature or thumb impression of the applicant shall be taken on the register and the register shall be signed by the Chairman or, in his absence, by any member authorised under section 112.

Plaintiff or complainant to attend next sitting of Nyaya Panchayat.

114. Every suit or case instituted in accordance with the provisions of section 112 shall be brought before the Nyaya Panchayat at its next sitting and the plaintiff or complainant, as the case may be, shall, at the time of making the application, be informed of the date, time and place fixed for such sitting and directed to attend on that date, and at that time and place.

Summons to be issued to defendant or accused.

115. The Nyaya Panchayat after hearing the application, shall cause a written summons in the prescribed form to be served on the defendant or accused, as the case may be,

requiring him to attend and produce his evidence on such date, and at such time and place as may be stated in the summons and shall at the same time direct the plaintiff or complainant to attend and produce his evidence on such date, and at such time and place: Provided that the Nyaya Panchayat may, for reasons to be recorded, after hearing the application and examining the plaintiff or complainant, refuse to issue a summons and dismiss the suit or complaint.

116. Such summons shall ordinarily be caused to be served by the patel. Where there are two patels in a village, one of whom is a revenue patel and the other a police patel, the summons shall ordinarily be served, by the revenue patel if it relates to a suit and by police patel if it relates to a case : Provided, however, that a Nyaya Panchayat may cause the summons to be served through any other person.

Summons by whom served.

117. The summons shall be in duplicate, signed by the presiding member of the Nyaya Panchayat and shall, as far as possible, be served personally on the defendant or accused, as the case may be, whose signature or thumb-impression shall be taken in token of service. If the defendant or accused after diligent search cannot be found and the Nyaya Panchayat is satisfied that he is evading service or if he refuses to take the summons the Nyaya Panchayat may order service to be made on an adult male member of his family residing with him, or by affixing a copy thereof upon some conspicuous part of the house in which he ordinarily resides.

Mode of service of summons.

118. If a defendant or accused is at the time of the issue of summons outside the village of the Panchayat the summons may be forwarded by the Nyaya Panchayat to the Deputy Collector or to any officer not below the rank of a Tahsildar, who may be authorised by the Deputy Collector in this behalf, and the Deputy Collector or such officer shall cause the summons to be served as if it were summons from his own court.

Mode of service outside village.

119. Women who, according to the customs and manners of the country, ought not to be compelled to appear in public, shall be exempt from personal appearance before a Nyaya Panchayat in any suit.

Exemption of certain persons from appearance in suits.

120. (1) A Nyaya Panchayat may, if it considers the evidence of, or the production of a document by, any person necessary in a suit or case, issue a summons to such person to compel him to attend or to produce or cause the production of such document, and such person shall be bound to comply with the directions contained in the summons. Such summons shall be in the form and served in the manner as hereinbefore provided.

Issue of summons to witnesses.

(2) A Nyaya Panchayat may refuse to summon a witness or to enforce a summons already issued against a witness where, in its opinion, the attendance of the witness cannot

be procured without an amount of delay, expense or inconvenience which in the circumstances, would be unreasonable.

(3) No Nyaya Panchayat shall enforce the attendance of any person living outside the village to give evidence, or to produce a document, unless such sum of money is deposited with the Nyaya Panchayat as appears to the Nyaya Panchayat to be sufficient to defray his reasonable expenses and if in the opinion of the Deputy Collector or officer authorised under section 118, as the case may be, the attendance of any such person is not necessary for the proper adjudication of the suit or case, such Deputy Collector or officer shall return the summons to the Nyaya Panchayat with his endorsement accordingly.

(4) No Nyaya Panchayat shall compel any person to give evidence or to disclose any communication which such person cannot be permitted to give or compelled to disclose under the provisions of the Hyderabad Evidence Act, 2 of 1313 F. or under any other law, for the time being in force.

Pleaders, etc., excluded from appearance. **121.** No pleader, vakil, or mukhtar and no advocate or attorney of a High Court, shall be permitted to appear on behalf of any party to any suit or case before a Nyaya Panchayat: Provided that any party to any such suit or case may be permitted, on reasonable cause being shown to the satisfaction of the Nyaya Panchayat to employ any relation, servant, dependant, or friend who is not and who has not previously been a pleader, vakil, or mukhtar or an advocate or attorney of a High Court, to appear either conjointly with or in lieu of such party.

When a relation, servant, dependant, or friend appears in lieu of a party, he shall be furnished by such party with a written authority for which no fee will be chargeable defining the extent to which he is empowered to act.

Decision of suit or case on facts ascertained. **122.** (1) It shall be the duty of a Nyaya Panchayat to ascertain the facts of a suit or case before it after holding an inquiry in accordance with the provisions of this Act and the Rules.

(2) Nothing in any enactment relating to evidence or procedure shall in any way affect the powers of a Nyaya Panchayat to hold such inquiry.

(3) After holding such inquiry, a Nyaya Panchayat may pass such decree or order, subject to the provisions of this Act, as may in its opinion seem just and equitable. Such decree or order shall state the finding and a brief statement of the reasons thereof.

Decision of the Nyaya Panchayat. **123.** The decision of the Nyaya Panchayat shall be in accordance with the opinion of the members of the Nyaya Panchayat who are present at the sitting or of the majority of such members. If the members are equally divided, the person presiding shall have a second or casting vote.

124. The Nyaya Panchayat may, from time to time adjourn the hearing of any suit or case : Adjournment.

Provided that such adjournment is, in its opinion, unavoidable or necessary to adjust and equitable decision of the suit or case.

125. (1) If the plaintiff or complainant fails to appear, after having been informed of the date, time and place fixed for the hearing the Nyaya Panchayat may hear and decide the suit or case in his absence. Disposal of suits and cases in absence of party.

(2) The Nyaya Panchayat may hear and decide a suit or case in the absence of the defendant or the accused if a summons has been served upon him in the manner hereinbefore prescribed, or if he has been informed of the date, time and place fixed for hearing :

Provided that no sentence shall be passed by a Nyaya Panchayat on any accused, unless he has appeared, either in person or by a representative, before the Nyaya Panchayat and the substance of this statement has been recorded in the prescribed register.

(3) If, after the service of summons upon him, an accused fails to appear, either in person or by a representative, the Nyaya Panchayat may apply to the District Magistrate or to any officer not below the rank of a second class Magistrate authorised by the District Magistrate in this behalf, and such District Magistrate or officer shall compel the accused to appear in person or by his representative before the Nyaya Panchayat as if he were a court trying the case.

(4) Where an accused person has, under sub-section (3), been compelled to appear before the Nyaya Panchayat, the Nyaya Panchayat shall forthwith take his statement or as the case may be of his representative and thereafter his attendance at the hearing of the case shall not be compulsory.

126. (1) Where it is proved to its satisfaction that a suit has been adjusted wholly or in part by oath or by any lawful agreement, compromise or satisfaction, the Nyaya Panchayat shall order such agreement, compromise or satisfaction to be recorded and shall pass a decree in accordance therewith so far as it relates to the suit. Compromise of suits and compounding of cases.

(2) A Nyaya Panchayat may permit any case to be compounded:

Provided that when a Nyaya Panchayat does not pass a decree in accordance with the agreement, compromise or satisfaction, under sub-section (1) or does not permit a case to be compounded under sub-section (2), it shall record its reasons in writing.

127. When any party to a suit dies during the pendency of the suit but the right to sue survives the Nyaya Panchayat shall proceed with the suit so far as may be in the manner laid down in Chapter XXV of the Hyderabad Civil Procedure Code. Death of parties.

128. (1) Except as provided in sub-section (2) a Nyaya Panchayat shall not have power to cancel, revise or alter any decree or order passed by it. Nyaya Panchayat not to revise or alter its decision.

(2) On application made within one month from the date of the decree or order of a Nyaya Panchayat, the Nyaya Panchayat may, for reasons to be recorded in writing, restore any suit which has been dismissed in the absence of the plaintiff or in which an *ex parte* decree has been passed against the defendant.

Interest and instalments.

129. In suits for money, a Nyaya Panchayat may, in its discretion, direct payment of interest on the sum decreed, at a rate not exceeding six per cent. per annum from the date of the decree until the date of payment and of any fees which may be prescribed.

When a Nyaya Panchayat decrees the payment of a sum of money in a suit it may direct that it be paid by instalments without interest, or with interest not exceeding the above rate.

Reference by Nyaya Panchayat to District Court or District Magistrate.

130. (1) When any Nyaya Panchayat is of opinion that any suit or case before it is of such nature, or of such intricacy or importance that it ought to be tried by a Court or that the accused in a case ought to receive a punishment different in kind from, or more severe than, that which Nyaya Panchayat is empowered to inflict, it shall stay proceedings and refer the suit to the District Court or the case to the District Magistrate for orders.

(2) If the District Court or District Magistrate, as the case may be, is of the opinion that the suit or case is of such nature, intricacy or importance that it ought not to be tried by the Nyaya Panchayat or that the accused in a case ought to receive a punishment different in kind from, or more severe than, that which such Nyaya Panchayat is empowered to inflict, such Court or Magistrate shall pass orders directing the plaintiff or complainant to the civil or criminal court, as the case may be, competent to take cognizance of such suit or case.

(3) If the District Court or District Magistrate, as the case may be, is of opinion that the suit or case is not of such nature, intricacy or importance that it ought to be tried by a Court, or that the accused in a case ought not to receive a punishment different in kind from, or more severe than, that which such Nyaya Panchayat is empowered to inflict, such Court or Magistrate shall return the suit or case to the Nyaya Panchayat, which made the reference, for disposal.

Appeals.

131. (1) An appeal shall lie to the District Court against a decree passed by a Nyaya Panchayat in any suit and to the District Magistrate against an order in any case.

(2) The period for filing such appeals shall be thirty days from the date of the decree or order as the case may be.

Finality of decrees and orders.

132. Every order passed under section 130, 131, 140 or 141 by a District Court or by a District Magistrate shall be final and shall not be subject to any appeal, revision or review.

CHAPTER XI

EXECUTION

133. If, on the application of a decree-holder or judgment-debtor, the Nyaya Panchayat, after enquiry and after giving notice to the opposite party finds that the decree has been satisfied or adjusted, wholly or in part, the Nyaya Panchayat shall record the fact in the prescribed register: Satisfaction or adjustment of decrees to be recorded.

Provided that no notice to the opposite party and no enquiry shall be necessary, if the decree-holder certifies the full satisfaction of the decree.

134. (1) If, after a period of one month from the date of a decree, the decree remains unsatisfied or unadjusted, in whole or in part, the decree-holder may, within one year of the date of the decree, apply to the Nyaya Panchayat for execution. Execution through Deputy Collector.

(2) On such application for execution, the Nyaya Panchayat shall certify to the Deputy Collector that the decree remains unsatisfied or unadjusted, in whole or in part, and on receipt of such certification the Deputy Collector shall, provided that the Nyaya Panchayat shall have so certified to the Deputy Collector within one year from the date of the application for execution,—

- (a) if the decree is for money, proceed to recover it as if it were an arrear of land revenue; or
- (b) if the decree is for any specific, movable property cause the decree to be executed as if it were a decree of a civil court, and in so acting may exercise all the powers of a civil court.

135. (1) If, after a period of one month from the date fixed for the payment of any instalment of a sum of money decreed by a Nyaya Panchayat under section 129, an instalment or any portion thereof remains unpaid, the decree-holder may, within one year of the date when it fell due, apply for execution to the Nyaya Panchayat. Execution of instalment decree through Deputy Collector.

(2) On such application for execution, the Nyaya Panchayat shall certify to the Deputy Collector that the instalment or a portion thereof still remains unpaid, and on receipt of such certification the Deputy Collector shall, provided the Nyaya Panchayat shall have certified to the Deputy Collector within one year from the date of the application for execution, proceed to recover the amount of the instalment so remaining unpaid as if it were an arrear of land revenue.

136. If, after the issue of the certificate to the Deputy Collector under section 134 or 135 but before the decree has been executed through the Deputy Collector, the decree or the instalment is fully satisfied and satisfaction is recorded under section 133, the Nyaya Panchayat shall forthwith certify such satisfaction to the Deputy Collector who shall thereupon stay the execution proceedings. All sums of Satisfaction of decree or instalment after certificate.

money realised by execution through the Deputy Collector shall, after satisfaction of the decree, be refunded to the judgment-debtor.

Fine and compensation when payable. **137.** (1) Every sum ordered to be paid as compensation and every fine imposed under sections 91, 92, 93, and 95 by a Nyaya Panchayat shall be payable at once :

Provided that the Nyaya Panchayat may allow any person ordered by it to pay compensation or fine to pay the same within such time, not exceeding fifteen days, as it may think proper and on such terms as to security as it shall seem to the Nyaya Panchayat necessary to impose.

Mode of recovery. (2) If the amount of fine or compensation remains unpaid for fifteen days from date of the order, the Nyaya Panchayat shall recover the same by distraint and sale of the defaulter's movable property.

(3) If the amount of fine or compensation is not fully recovered, the Nyaya Panchayat shall certify accordingly to the Deputy Collector, and on receipt of such certification the Deputy Collector shall, provided the Panchayat shall have certified to the Deputy Collector within a period of one year from the date when the amount became recoverable by the Nyaya Panchayat under sub-section (2), proceed to recover it as if it were an arrear of land revenue and shall remit the amount so recovered to the Nyaya Panchayat.

Fine or compensation when realised to be recorded. **138.** As soon as the amount of fine or compensation referred to in section 137 is realised by the Nyaya Panchayat whether directly or through the Deputy Collector, the amount so realised shall be entered in the prescribed register.

Payment of compensation out of village fund. **139.** Any money which has been ordered by the Nyaya Panchayat, under section 93 or section 95 to be paid as expenses or compensation, shall be paid by it out of the amount realised as fines under sections 91 and 92 and the balance of the said amount, if any, shall be credited to the Panchayat Fund established under section 32.

District Court or District Magistrate may quash proceedings. **140.** (1) The District Court in any suit and the District Magistrate in any case may, at any time, either on the application of an aggrieved party or otherwise or on a reference made by a Nyaya Panchayat under section 130 by order in writing, quash any proceedings of a Nyaya Panchayat at any stage, or cancel any decree or order passed by a Nyaya Panchayat.

(2) When an order has been passed by the District Court under sub-section (1) in respect of any suit, the plaintiff may institute a fresh suit for the same relief in a civil court and the period from the date of the institution of the suit before the Nyaya Panchayat to the date of such order shall be excluded in computing the period of limitation for the fresh suit.

(3) Where an order has been passed by the District Magistrate under sub-section (1) in respect of any case proceedings in respect of the same offence may be instituted in the Court of a Magistrate having jurisdiction.

141. (1) The District Court in any suit and the District Magistrate in any case may at any time on the application of an aggrieved party or otherwise by order in writing transfer any suit or case, as the case may be, to a Civil or Criminal Court competent to try the same. Transfer of suit or case by the District Court or District Magistrate.

(2) On the transfer of such suit or case, the Court to which it is transferred shall hear such suit or case anew as if such suit or case was instituted before it.

142. Subject to the provisions of this Act in regard to all proceedings under this Act, District Courts and District Magistrates shall have the same powers and shall follow the same procedure as they respectively have and follow in regard to proceedings in connection with decrees or orders of courts subordinate to them in their ordinary jurisdiction. Procedure in proceedings before District Court and District Magistrate.

143. No person shall be arrested or imprisoned in execution of a decree under the provisions of this Act. Bar to arrest and imprisonment in execution of decrees.

144. The Village Panchayat A'in No. I of 1351 F. is hereby repealed : Repeal and savings.

Provided that—

(a) such repeal shall not affect the liability of any person to pay any sum due from him under the said A'in or the validity or invalidity of anything already done thereunder ;

A'in No. I of
1351 F.

(b) all Panchayats established under the Village Panchayat A'in No. I of 1351 Fasli and existing immediately before the coming into force of this Act shall be deemed to have been established under this Act until new Panchayats are established thereunder ;

and the rights and liabilities of any such Panchayat shall be vesting in and attached to the Panchayat so deemed to have been established,

and any appointment, notification, notice, tax, order, permission or rule made, issued or imposed in respect of any such Panchayat under the A'in so repealed shall, so far as is not inconsistent with the provisions of this Act, be deemed to have been made, issued or imposed under the provisions of this Act, in respect of the Panchayats so deemed to have been established under this Act unless and until superseded by any appointment, notification, notice, tax, order, permission or rule made, issued or imposed under this Act.

THE JAMMU AND KASHMIR VILLAGE PANCHAYAT ACT, 2008

Jammu and Kashmir Act No. V of 2008

An Act to establish and develop local self-government in the rural areas of the Jammu and Kashmir State.

WHEREAS it is expedient to establish and develop local self-government in the rural areas of the Jammu and Kashmir State and to make better provision for village administration and development;

NOW, THEREFORE, in exercise of the powers reserved under section 5 of the Jammu and Kashmir Constitution Act, 1996, read with the Proclamation issued by His Highness in the extraordinary issue of the Government Gazette, dated 7th Har, 2006, Yuvaraj Shree Karan Singh Ji Bahadur is pleased to enact as follows:—

CHAPTER I

PRELIMINARY

Short title,
extent and
commence-
ment.

1. (1) This Act shall be called the Jammu and Kashmir Village Panchayat Act No. V of 2008.

(2) It extends to the whole of the State.

(3) It shall come into force from such date as the Government may by Notification in the Government Gazette appoint in this behalf.

Definitions.

2. In this Act unless there is anything repugnant in the subject or context:—

- (a) “Case” means a Criminal Proceeding in respect of an offence triable by a Panchayat.
- (b) “Suit” means a civil suit.
- (c) In this Act the expressions “decree”, “decree-holder”, “Judgment-debtor”, “Legal representative” and “movable property” shall bear the same meaning as assigned to them in the Code of Civil Procedure, 1977.
- (d) “Notification” means a notification published in the Jammu and Kashmir Gazette.
- (e) “Panch” means a member of a Panchayat whether elected or appointed under this Act.
- (f) “Panchayat” means a Panchayat constituted under this Act.
- (g) “Panchayat area” means the area within which a Panchayat exercises jurisdiction.
- (h) “Panchayat Circle” means any area declared to be a Panchayat circle under section 3 of this Act.

Prescribed means prescribed by rules made under this Act.

- (j) **"Prescribed Authority"** means the authority notified as such by the Government.
- (k) **"Public Servant"** means a public servant as defined in section 21 of Ranbir Penal Code, 1989.
- (l) **"Chaukidar"** means a village policeman appointed under the Chaukidari Rules.
- (m) **"Village"** means a parcel or parcels of land having separate name in the revenue records and known limits and not included in the limits of a Municipality, Cantonment or Town Area as defined in the Jammu and Kashmir Town Area Act.

CHAPTER II

ESTABLISHMENT, CONSTITUTION AND SITTINGS OF PANCHAYATS

3. The Government may by notification declare any area ^{Demarcation} to be a Panchayat circle for the purposes of this Act and ^{of Panchayat} may by notification alter the boundaries of any circle so ^{circle.} declared :

Provided that such circle shall not include any area which has been included in a municipality or notified area under the Jammu and Kashmir Municipal Act, 1998, or as a cantonment under the Jammu and Kashmir Cantonment Act, 1991, or as a Town area under the Jammu and Kashmir Town Area Act, 1997.

4. (1) The Government may by notification establish a ^{Establish-} Panchayat in any Panchayat circle. ^{ment & Con-}

(2) Every such Panchayat shall consist of such number ^{stitution of} of Panches not less than five and not more than eleven as ^{Panchayats.} the Government may from time to time fix in this behalf.

5. (1) Such number of Panches of a Panchayat as the ^{Appointment} prescribed authority may determine shall be elected in the ^{of Panches.} manner prescribed and the rest shall be nominated by the prescribed authority :

Provided that the majority of the Panches shall be elected:

Provided further that all the members of the Panchayat shall be elected if the Government so directs by notification.

(2) A Panch shall unless removed under section 10 hold office for a period of three years from the date of the confirmation of the election by the prescribed authority or nomination as the case may be or until his successor is elected or nominated.

Qualification
of electors.

6. Every person who ordinarily resides, carries on business, or personally works for gain within the Panchayat area is not of unsound mind, and has completed twenty-first year of his age shall be entitled to vote in any election of the Panchayat.

Disqualifica-
tions.

7. A person shall be disqualified for being chosen as or for being a member of a Panchayat if :—

- (a) he does not reside within the Panchayat area ;
- (b) he is in the employment of the Government or any local body or is a money-lender by profession;
- (c) he is under twenty-one years of age;
- (d) he is of unsound mind;
- (e) he has been adjudged insolvent by a competent Court;
- (f) he is in arrears in the payment of any dues to the Government;
- (g) he has been convicted of any such offence or subjected by Criminal Court to any such order as implies, in the opinion of the prescribed authority subject to appeal a defect of character rendering him unfit to be a Panch;
- (h) he is not a State subject:

Provided that any person aggrieved by an order under this section shall have a right of appeal to such authority as may be prescribed.

Sarpanch.

8. (1) Subject to the rules prescribed in this behalf every Panchayat shall elect one of its Panches to be its Sarpanch who shall continue as such for a period of one year unless he dies, resigns or is removed earlier but at the expiry of the term of one year the same person may be elected as Sarpanch.

(2) The Sarpanch shall be the Chairman of the Panchayat and shall be assigned such powers and functions as may be prescribed.

Suspension
and removal
of Panches.

9. Any Panch or Sarpanch shall be liable to removal from the Panchayat by the prescribed authority on any of the following grounds :—

- (a) gross misconduct;
- (b) any incapacity as prescribed under section (7);
- (c) neglect of duty;
- (d) continued absence from the Panchayat area for a period of six months;
- (e) failure to attend six successive meetings of the Panchayat;
- (f) if his conduct as a Panch or Sarpanch in the opinion of the Government or prescribed authority makes his continuance in office undesirable or his removal desirable in the interest of the public or of the Panchayat :

Provided that absence from Panchayat area or failure to attend the meetings of the Panchayat as prescribed in sub-clauses (d) and (e) shall not render him liable to removal if such absence or failure is due to reasons beyond his control

10. (1) Whenever a vacancy occurs by the death, resignation or removal of a Panch, a new Panch shall be elected or nominated as the case may be in such manner as may be prescribed, and the person so elected or nominated shall fill such vacancy for the unexpired remainder of the term for which such Panch would otherwise have continued in office. Filling vacancies in Panchayat.

(2) No vacancy in the Panchayat shall render its proceedings illegal so long as the number of Panches is not reduced below three.

(3) Before removal of the Panch on any of the grounds hereinbefore provided the prescribed authority shall give notice to such Panch and call upon him to show cause why he should not be removed and shall give him adequate opportunity to be heard.

11. (1) If in the opinion of the Government a Panchayat is incompetent to perform or persistently makes default in the performance of a duty imposed on it by or under this or any other Act or exceeds or abuses its power or should there be any other reason which in the opinion of the Government necessitates the suspension or abolition of a Panchayat, the Government may by notification suspend or abolish the Panchayat : Suspension or abolition of Panchayat.

Provided that no order under this section shall be passed unless the Panchayat is called upon to show cause why such an order shall not be passed.

(2) When an order under sub-section (1) is passed the Government may by order in writing make arrangements for carrying out the work of the Panchayat for such period as it may specify not exceeding 3 months :

Provided that the prescribed authority shall not authorise any person or persons to carry on the judicial duties of the Panchayat.

(3) On the abolition or suspension of a Panchayat, under sub-section (1) the following consequences shall ensue:—

- (a) All members of the Panchayat shall from the date of the notification vacate their seats;
- (b) The funds and other property, if any, vested in the Panchayat shall be disposed of as the Government may direct;
- (c) All civil and criminal cases pending before such Panchayat shall be disposed of by the Courts competent to take their cognizance.

(4) The Government may at any time within three months establish another Panchayat in the place of any Panchayat suspended or abolished under this section.

Finality of orders.

12. Any order passed under section 9 or section 11 shall be final :

Provided that a Panch or a Sarpanch removed from a Panchayat shall have the right of appeal to such authority as the Government may prescribe.

Incorporation of Panchayat.

13. (1) A Panchayat shall be a body corporate by such name as Government may determine and shall have perpetual succession and a common seal and shall by the said name sue and be sued.

(2) A Panchayat shall, subject to such rules as may be prescribed and which shall not be inconsistent with any law for the time being in force be competent to acquire, hold or transfer property movable or immovable to enter into contracts and to do all other things necessary for the purpose of this Act.

Place of sitting of Panchayat.

14. A Panchayat shall sit at such place or places within the limits of its jurisdiction as may be fixed by it.

The meetings of the Panchayat shall be public and shall be held at least twice a month :

Provided that the Sarpanch when required in writing by majority of Panches to call a meeting shall do so within three days.

Quorum and method of decision.

15. (1) Two-thirds of the total number of Panches shall form a quorum in any meeting of the Panchayat.

(2) The decision of the majority at any meeting shall be binding in all matters and when the voting is equal the Chairman shall have an additional or casting vote.

Sarpanch to preside.

16. (1) The Sarpanch shall preside over every meeting of the Panchayat at which he is present. If he is absent such Panches as are present shall elect one of them to preside at the meeting.

(2) No business shall be transacted at any meeting by the Panchayat unless a Panch able to read and write is present.

Records and Registers.

17. (1) The Panchayat shall maintain summary records and registers of its proceedings in the prescribed form.

(2) Such records and registers shall be written by the Sarpanch or by the presiding Panch with his own hand or under his immediate supervision by any other Panch :

Provided that the Panchayat may subject to rules made under this Act appoint a clerk to perform this work.

Removal of difficulty in the establishment and working of a Panchayat.

18. If in establishing a Panchayat or the working of a Panchayat any dispute or difficulty arises regarding the interpretation of any provision of the Act or any rule made thereunder or any matter arising out of or relating to such

interpretation or any matter not provided in this Act the same shall be referred to the Government whose decision thereon shall be final and conclusive.

19. If any dispute arises between two or more than two Panchayats it shall be referred to the prescribed authority whose decision shall be final, and shall not be questioned in any Court of law. Dispute between the Panchayats.

CHAPTER III

JUDICIAL FUNCTIONS OF THE PANCHAYATS

20. The following suits shall be cognizable by Panchayats, namely :— Suits cognizable by Panchayats.

- (a) suits for money due on contracts not affecting any interest in immovable property;
- (b) suits for the recovery of movable property;
- (c) suits for compensation for wrongfully taking or injuring property:

Provided that the amount or value of the claim does not exceed twenty-five rupees and provided further that no suit shall be brought before any Panchayat—

- (1) on a balance of partnership account;
- (2) for a share or part of a share under an intestacy or for a legacy or part of a legacy under a will;
- (3) by or against the Government or a village official or an employee of the Government, or a local body, or a Co-operative Society or a registered Company;
- (4) by or against a minor or a person of unsound mind;
- (5) on account of any dispute or matter in respect of which any suit or application may be brought or made in a Revenue Court.

21. The following offences as well as abetments of and attempts to commit any such offence shall be cognizable by Panchayats, namely :— Offences cognizable by Panchayats.

	Section
(a) Under the Ranbir Penal Code, 1989 :—	
Voluntarily causing hurt	323
Assault or use of criminal force otherwise than on grave provocation	352
Theft where the value of the property stolen does not exceed 10 rupees	379
Mischief when the damage or loss caused does not exceed ten rupees in value	426
Intentional insult with intent to provoke a breach of the peace	504

Provided that no offence of theft shall be cognizable by any Panchayat unless an accused person has been either apprehended or recognized and named :—

(b) Under the Cattle-Trespass Act, 1977:—

Forcibly opposing the seizure of cattle
or rescuing the same Section 24

(c) Under the Jammu and Kashmir Village Sanitation Act, 1990 :—

Breach of rules made under section 13 and punishable under section 9.

(d) Under the Code of Criminal Procedure, 1989:—

Application for maintenance under section 488
with the proviso that the order of maintenance
shall not exceed Rs. 10 per month.

Certain parties excluded from jurisdiction.

22. No Panchayat shall take cognizance of any offence in which either the complainant or the accused is a public servant.

Certain persons not to be tried by Panchayat for theft.

23. No Panchayat shall take cognizance of any offence under section 379 of the Ranbir Penal Code, 1989, in which the accused :—

(a) has been previously convicted of an offence punishable under Chapter XII or Chapter XVII of the Ranbir Penal Code, 1989, with imprisonment of either description for a term of three years or upwards; or

(b) has been convicted for theft by any Panchayat on two previous occasions; or

(c) has been bound over to be of good behaviour in proceedings instituted under section 109 or section 110 of the Code of Criminal Procedure, 1989.

Conviction by a Panchayat not a previous conviction under section 75, Ranbir Penal Code.

24. A conviction by a Panchayat under the Act shall not be deemed to be a previous conviction for the purposes of section 75 of the Ranbir Penal Code, 1989.

Penalties.

25. The following are the maximum penalties which may be inflicted by a Panchayat under section 21 of this Act:—

(a) Under the Ranbir Penal Code, 1989:—

Fine not exceeding ten rupees or double the damage or loss caused, whichever is greater.

(b) Under the Cattle-Trespass Act, 1977:—

Fine not exceeding five rupees.

(c) Under the Jammu and Kashmir Village Sanitation Act, 1990 :—

Fine not exceeding two rupees.

(2) No sentence of imprisonment whether substantive or in default of fine shall be inflicted by any Panchayat.

26. In inflicting any fine under the foregoing section the Panchayat may order any portion or the whole of the fine recovered to be applied:— Compensation to Complainants.

- (a) in defraying expenses properly incurred in the case by the complainant;
- (b) in compensation for any material damage or loss caused by the offence committed.

27. If any Panchayat is satisfied after an enquiry that a case brought before it was false, frivolous or vexatious such Panchayat may order the complainant to pay to the accused such compensation not exceeding five rupees as it thinks fit. Compensation to accused for false case.

28. If during the course of a trial and before delivering the judgment a Panchayat finds that an offence has been committed under circumstances which necessitate a heavier sentence or fine than it can impose, the Panchayat may transfer such case to the competent Criminal Court having jurisdiction in the Panchayat area. Reference by Panchayat to competent Court.

29. The Government may by notification confer on a Panchayat all or any of the following powers :— Enhanced powers for special Panchayats.

- (1) to hear and determine all or any of the suits described in section 20 up to any value not exceeding Rs. 75;
- (2) to take cognizance of offences of theft under section 379, Ranbir Penal Code, 1989, where the value of the property stolen does not exceed thirty rupees;
- (3) to take cognizance of offences of mischief under section 426, Ranbir Penal Code, 1989, where the damage or loss caused does not exceed thirty rupees in value;
- (4) to inflict the following maximum penalties :—

- (a) Under the sections of the Ranbir Penal Code, 1980, mentioned in section 21 of this Act. Fine not exceeding twenty rupees or double the damage or loss caused whichever is greater.
- (b) Under section 24 of the Cattle Trespass Act, 1977. Fine not exceeding ten rupees.
- (c) Under the Jammu and Kashmir Village Sanitation Act, 1990. Fine not exceeding five rupees.

30. No Panchayat shall entertain or hear a suit or case in which any Panch is a party or is directly or indirectly interested in such suit or case. Panchayat Jurisdiction barred in certain cases.

The Panchayat shall if such suit or case is brought before it refer it to a court of competent jurisdiction for decision.

Res judicata
and pending
suits and
cases.

31. (1) No Panchayat shall try any suit or issue in respect of any matters which is pending for decision or has been heard or decided by a court of competent jurisdiction in a former suit between the same parties or those under whom they claim.

(2) Where proceedings are pending in any court against an accused person in respect of any offence or where an accused person has been tried for any offence no Panchayat shall take cognizance of such offence or on the same facts of any other offence of which the accused might have been charged or convicted.

Suits to
include
whole claim.

32. (1) Every suit instituted before a Panchayat shall include the whole of the claim which the plaintiff is entitled to make in respect of the matter in dispute; but he may relinquish any portion of his claim in order to bring the suit within the jurisdiction of the Panchayat.

(2) If a plaintiff omits to sue in respect of, or intentionally relinquishes any portion of his claim, he shall not afterwards sue in respect of the portion so omitted or relinquished.

Limitation
for suit.

33. No suit shall be entertained by a Panchayat after the expiration of three years from the time when the right to sue first accrued :

Provided that the period of limitation for suits specified in the schedule to this Act, when instituted before a Panchayat shall be the period prescribed in the said schedule in respect of such suits.

Panchayat
before which
suit to be
instituted.

34. A suit under this Act shall be instituted in the Panchayat established for the Panchayat area in which the defendant or any one of the defendants, where there are more than one, resides at the time of the institution of the suit irrespective of the place where the cause of action arose.

Panchayat
before which
case to be
instituted.

35. A case under this Act shall be instituted in the Panchayat established for the Panchayat area in which the offence is committed.

Transfer of
case to
Panchayats
by Magis-
trate.

36. Any Magistrate upon receiving a complaint of facts constituting an offence triable by a Panchayat shall, unless he is of opinion for reasons to be recorded in writing that it is not a fit case to be tried by a Panchayat, transfer the same for trial to the Panchayat having jurisdiction to try it.

Exclusive
jurisdiction
in suits.

37. No court shall take cognizance of any suit which is cognizable under this Act by Panchayat unless a reference has been made to it under this Act.

Arbitration
by a Panch-
ayat.

38. Notwithstanding anything contained in this Act, a Panchayat may take cognizance of a suit, the total value of which does not exceed Rs. 200 if the parties mutually agree in writing to be filled before the Panchayat that they will abide by the decision of the Panchayat in such suit.

39. The prescribed authority may, on the application of any of the parties or on its own motion, order the transfer of a case from one Panchayat to any other Panchayat :

Provided that before passing such an order the prescribed authority shall after issue of a notice to the parties hear objections, if any, to such transfer.

CHAPTER IV

INSTITUTION OF SUITS AND CASES AND PROCEDURE OF PANCHAYATS

40. Any person who wishes to institute a suit or case under this Act before a Panchayat shall make application in writing to the Sarpanch or in his absence from the Panchayat area to such other Panch as he may depute in this behalf and shall at the same time pay the prescribed fee.

Suits and cases how instituted.

41. The substance of the application shall be recorded without delay in the register maintained under section 17 and the signature or thumb impression of the applicant shall be taken on the register.

Substance of application to be recorded in register.

42. Every suit or case instituted in accordance with the provisions of section 40 shall be brought before the Panchayat at its next sitting and the plaintiff or complainant shall at the time of making his application be informed of the time and place fixed for such sitting and be directed to attend at that time and place.

Plaintiff or complainant to attend meeting of Panchayat.

43. The Panchayat after hearing the application shall cause a written summons in the prescribed form to be served on the defendant or accused requiring him to attend and produce his evidence at such time and place as may be stated in the summons and shall at the same time direct the plaintiff or complainant to attend and produce his evidence at such time and place :

Summons to issue to defendant or accused person.

Provided that the Panchayat may for reasons to be recorded after hearing the application and examining the plaintiff or complainant refuse to issue a summons and dismiss the suit or complaint.

44. Such summons shall ordinarily be served by one of the chowkidars belonging to the Panchayat area; but the Panchayat in its discretion may have it served by any other person.

Summons by whom served.

45. The summons shall be in duplicate signed by the presiding Panch and wherever it is practicable shall be served personally on the defendant or accused whose signature or thumb impression shall be taken in token of service. If he cannot be found and the Panchayat is satisfied that he is evading service or if he refuses to take the summons, the Panchayat may order service to be made on an adult male

Mode of service of summons.

member of his family residing with him or by affixing a copy thereof upon some conspicuous part of the house in which he generally resides.

**Mode
service out-
side Panch-
ayat.**

46. If an accused person resides outside the Panchayat area or if defendant or accused person is at the time of the issue of the summons outside the Panchayat area the summons may be forwarded by the Panchayat to the Tehsildar of the place where the defendant or accused resides and the Tehsildar shall cause it to be served as if it were summons from his own Court.

**Issue of
summons to
witnesses.**

47. (1) Subject to the provisions of sub-sections (2), (3), (4) and (5) the Panchayat may, if it considers the evidence of any person or the production of a document by any person necessary in a suit or case, issue a summons to such person to compel his attendance or to produce or cause the production of such document and such person shall be bound to comply with the direction contained in the summons. Such summons shall be served in the manner provided in sections 44, 45 and 46.

(2) No summons shall be issued in a suit upon any person who is exempt from personal appearance in a civil court.

(3) The Panchayat shall refuse to summon a witness or to enforce a summons already issued against a witness where in its opinion the attendance of the witness cannot be procured without any amount of delay, expense or inconvenience which in the circumstances would be unreasonable.

(4) The Panchayat shall not require the attendance of any person living outside the Panchayat area to give evidence or to produce a document, unless such a sum of money be paid to him as appears to the Panchayat to be sufficient to defray his reasonable expenses.

(5) No woman shall, against her will, be compelled to appear in person before a Panchayat:

Provided that if the Panchayat considers the evidence of such woman necessary to an enquiry pending before it the Panchayat may commission any other suitable woman to record the statement of the woman not willing to appear before the Panchayat:

Provided further that the woman not willing to appear before the Panchayat shall be bound to appear and make her statement before the Commissioner whose summons shall have the same validity as that of the Panchayat.

**Appearance
in person or
by represen-
tatives.**

48. Subject to the provisions of section 49 any party to a suit or case may appear before a Panchayat either in person or by such servant, *gomasta*, *karinda*, partner, relation or friend being authorised to appear on behalf of such party as the Panchayat may admit as a fit person to represent him.

**No legal
practitioner
to appear.**

49. No legal practitioner or one who has been such legal practitioner in the past shall be allowed to appear on behalf of any party in any proceeding under this Act.

50. It shall be the duty of the Panchayat to ascertain the facts of every suit or case before it by every lawful means in its power and thereafter to make such decree or order, with or without costs as it may deem just. In so doing it shall be bound by no laws of evidence or procedure other than the procedure prescribed by or under this Act. The decree or order passed shall be recorded briefly in the register maintained under section 17. Panchayat to ascertain truth and decide accordingly.

51. The Panchayat may from time to time as may be necessary postpone the hearing of any suit or case but it shall be its duty to dispose of it as promptly as possible. Postpone-necessary postpone the hearing of any suit or case but it shall be its duty to dispose of it as promptly as possible.

52. (1) If the plaintiff or complainant fails to appear after having been informed of the time and place fixed for hearing, the Panchayat may decide the suit or case in his absence. Disposal of suits and cases in absence of party concerned.

(2) The Panchayat may hear and decide a suit or case in the absence of the defendant or the accused, if a summons has been served upon him in the manner prescribed in section 44, 45 or 46 or if he has been otherwise informed of the time and place fixed for hearing :

Provided that no sentence shall be imposed by a Panchayat on any accused person unless he has appeared either in person or by representative before the Panchayat and the substance of his statement has been recorded in the register maintained under section 17.

(3) If after the service of summons upon him, an accused person fails to appear either in person or by representative the Panchayat may subject the accused for such non-appearance to a fine which may extend to five rupees and may apply to the Tehsildar of the Panchayat area who may compel the accused to appear in person before the Panchayat as if he were a Magistrate trying the case.

(4) When an accused person has under the preceding sub-section been compelled to appear before a Panchayat the Panchayat shall forthwith take his statement and thereafter his attendance at the hearing of the case shall not be compulsory.

53. Notwithstanding anything contained in this Act or in any other law for the time being in force it shall be lawful for a Panchayat to decide any suit or case within its jurisdiction in accordance with any settlement, compromise or oath agreed to by the parties. Compromise.

54. When any party to a suit dies before a decree has been passed, the suit shall abate, if not restored within one month on the application of the legal representative of a deceased plaintiff or in the case of death of a defendant, if the legal representative of the deceased defendant is not brought on record within one month from the date of the death but a fresh suit may be brought on the same cause of Death of parties.

action and the period during which the suit was pending shall be excluded in computing the period of limitation prescribed under section 33 for the fresh suit.

Panchayat not to revise or alter its decision.

55. (1) Except as provided in sub-section (2) a Panchayat shall have no power to cancel, revise or alter any decree or order passed by it.

(2) A Panchayat may, for reasons to be recorded on an application made within one month of the date of the decree or order, restore any suit which has been dismissed in default or in which a decree has been passed *ex parte* against the defendant.

Interest and Instalments.

56. (1) In suit for money the Panchayat may in its discretion decree interest on the sum decreed at a rate not exceeding six per cent. per annum from the date of the decree until the date of payment.

(2) When a Panchayat decrees the payment of a sum of money in a suit it may direct that it be paid by instalments without interest or with interest not exceeding the rate referred to in sub-section (1).

Reference of important suits and cases by Panchayat to prescribed authority.

57. (1) When any Panchayat having jurisdiction is of opinion that any suit or case before it is of such a nature or of such intricacy or importance that it should be tried by a regular court it shall stay proceedings and report the matter to the prescribed authority for orders.

(2) If the prescribed authority is of the opinion that the suit or case should be heard by a regular court, it shall send the record to the court having jurisdiction to hear it and such court shall proceed as if the suit or case was regularly instituted before it, subject to the payment of court fee under the Court Fee Act, 1977.

Panchayat's decree and orders not to be questioned on jurisdiction.

58. Except as provided by section 118 no order or decree passed in any suit or case triable by a Panchayat shall be called in question in any court on the ground that it was passed without jurisdiction.

Panchayat's decree and orders in suits otherwise final.

59. There shall be no appeal from any decree or order by Panchayat in any suit or case under this Act and except as provided in sections 118 and 55 no court or authority shall have power to revise any such decree or order.

Procedure when suit or case is sent to a Panchayat.

60. When a Panchayat received a suit or case under section 34, 35, 36 or 39 the substance of the claim or complaint shall be recorded without delay in the register maintained under section 17 and a notice shall at the same time be issued to the plaintiff or complainant informing him of the time and place fixed for hearing and the Panchayat shall thereafter proceed to deal with the suit or case as if it has been instituted in accordance with the provisions of section 40.

Payment or adjustment of decree to be recorded.

61. If on the application of the decree-holder or the judgment-debtor the Panchayat after enquiry finds that the decree has been satisfied, wholly or in part, the Panchayat shall record the fact in the prescribed register.

62. (1) A decree or order passed by a Panchayat shall be executed by it in such manner as may be prescribed. If the defendant's property is situated outside the jurisdiction of the Panchayat passing such decree or order it may transfer the decree or order for execution in the prescribed manner to the Panchayat within whose jurisdiction the property may be situated and if there is no such Panchayat then to the Tehsildar within whose jurisdiction it may be situated. Execution of decree and recovery of fines.

(2) If a Panchayat finds any difficulty in executing a decree, it may forward the decree to the Tehsildar and he shall :—

- (a) if the decree is for money, proceed to recover as if it were an arrear of land revenue ;
- (b) if the decree is for any specific movable property, cause the decree to be executed as if it were the decree of a civil court and in so acting may exercise all the powers of a civil court.

(3) The fines imposed, compensation granted or maintenance allowed in a case by a Panchayat or a penalty imposed or damages awarded under Chapter VIII of this Act, shall be recoverable by the Panchayat in such manner as may be prescribed. But if the Panchayat finds any difficulty in its recovery it may request the Tehsildar to recover it and he shall recover it as if it were arrear of land revenue and shall remit the amount so recovered to the Panchayat.

CHAPTER V

FINANCE AND TAXATION

63. Every Panchayat shall have a fund to be called the Panchayat Fund which shall be administered by the Panchayat subject to rules made by the Government and shall be utilized for meeting necessary expenditure and charges made and incurred in connection with performance of its duties and functions under this Act. Panchayat Fund.

64. The following receipts and moneys shall be credited to the Panchayat Fund :— Income of Panchayat Fund.

- (1) fees levied for the institution of suits and cases under section 40;
- (2) fines and compensation paid to the Panchayat under this Act;
- (3) receipts on account of taxes, tolls and fees levied under this Act;
- (4) sums contributed by Government and by private persons;

- (5) notwithstanding anything contained in the Jammu and Kashmir Village Sanitation Act, 1990, all fines realised under that Act within the Panchayat area;
- (6) sanitation cess levied on the revenue paying land situated within the Panchayat area; and
- (7) income from or sale proceeds of property vested in the Panchayat.

**Powers of
Taxation.**

65. (1) Subject to such rules as may be made by the Government in this behalf a Panchayat may with the previous approval of the Government, levy such taxes in cash or kind, tolls or fees and for such period as it may find necessary for the benefit of the Panchayat area.

(2) No tax or fee shall be levied under sub-section (1) unless the levy thereof is sanctioned by a resolution of the Panchayat supported by a majority consisting of not less than two-thirds of its sanctioned strength at a meeting specially convened for the purpose.

(3) When the Panchayat shall have sanctioned with the approval of the Government, the levy of any tax or fees under sub-section (1) such Panchayat shall at once notify in the prescribed manner in the village or villages in which the tax or fee is to be levied, the rate at which and the date from which tax or fee is to be levied.

**Recovery of
dues as
arrears of
land revenue.**

66. Subject to such rules as may be made by the Government in this behalf all the taxes or fees levied under section 65 by the Panchayat and the moneys recoverable under section 115 or sub-section (2) of section 116 shall be recoverable as if they were arrears of land revenue.

**Revision of
taxation
orders by the
Panchayat.**

67. Any person dissatisfied with the assessment under this chapter may within such time as may be prescribed apply to the Panchayat in writing for a revision of the assessment and the Panchayat may amend or confirm the same.

**Audit of
Panchayat
funds.**

68. The prescribed authority shall get the accounts of every Panchayat audited every year and arrange for the custody of Panchayat fund and maintenance of account.

**Annual
Budget.**

69. (1) Subject to such rules as may be prescribed in this behalf, every Panchayat shall prepare budget estimate of its income and expenditure for the year commencing on the first day of Baisakh.

(2) The Budget shall take effect after it has been approved by the prescribed authority and a Panchayat may incur any expenditure under any of the heads of the budget in excess of the amount approved under that head without variation or alteration of the budget with the approval of the prescribed authority.

CHAPTER VI

PANCHAYAT PROPERTY

70. The following shall constitute the property of a Panchayat :— Property vested in the Panchayat.

- (a) public village roads within the Panchayat area other than those under the control of any Department of the Government ;
- (b) property movable and immovable which has been transferred to a Panchayat by the Government, any public body or an individual ;
- (c) buildings, structures, machinery and water-reservoirs built by a Panchayat from its own funds or from contribution by the Government, any public body or an individual ;
- (d) rubbish, sewage, filth, village cleanings and other matter collected by the Panchayat under this Act ;
- (e) trees (excluding royal trees) and grass growing on property belonging to the Panchayat, fruit and other produce thereof and windfalls thereon.
- (f) drains, tanks, ponds, wells, springs and kuhls in the Panchayat area which do not belong to any person or a group of persons or to the Government and declared to be such property by a resolution of the Panchayat ;
- (g) any property which a Panchayat may acquire.

71. Where a Panchayat or a joint committee require any land to carry out any purpose of the Act, it or they shall first try to have the land by private negotiation and if the parties concerned fail to arrive at an agreement, such Panchayat may make an application in the prescribed form to the Collector to acquire the land and the Collector may acquire land for such Panchayat or joint committee. Power to acquire land.

CHAPTER VII

ADMINISTRATIVE FUNCTIONS & POWERS

72. Subject to such rules as may be prescribed in this behalf it shall be the duty of the Panchayat to arrange for: Compulsory duties of the Panchayat.

- (a) construction, maintenance, improvements and repairs of all the village roads, thoroughfares and streets and for their widening and enlargement with minimum damage to the neighbouring fields :

Provided that nothing in this clause shall be deemed to impose any duty or confer any power upon the Panchayat with respect to roads that are under the administrative control of a Government Department:

- (b) construction, maintenance in good condition and repairs of all bunds and embankments on rivers nallahs, streams and lakes and to arrange for protection of all agricultural lands, pastures and village *abadi* from floods and erosion;

Provided that the Government may direct a Panchayat to repair and construct any embankment or bund or a specific portion thereof, maintenance of which vests for the time being with a Government Department ;

- (c) digging of exit channels, construction of embankments and taking of other measures for the dewatering and reclamation for agricultural purposes of all such lands as may have been affected by floods, cloud bursts or other calamities;
- (d) notwithstanding anything contained in any other Act, law, notification, regulation or rule, construction of new irrigation kuhls and water-ways and silt-clearance, deepening, widening, repair and maintaining in proper working condition of all the kuhls, nallahs, water shoots, springs and such other water-courses as are necessary for the maintenance of irrigation facilities of agricultural lands and for the general welfare of village community:

Provided that the Panchayat shall not be required to carry out any repairs under this section in respect of any irrigation canal, water shoot, nallah, kuhl, spring and other water-course, the maintenance of which is specifically vested in the Public Works and Irrigation Department of the Government;

- (e) storage of manure in pits of prescribed standard and prohibiting the use in the fields of any manure other than that stored in pits or prepared under proper directions that shall be notified by the Panchayat in the area concerned;
- (f) plantation of trees including fruit trees on all waste lands, village roads, embankments and other landed property owned by the Panchayat or embankments whose repairs have been undertaken by the Panchayat;
- (g) procurement of improved varieties of seeds of food and commercial crops and inducing use of such seeds for cultivation within the Panchayat area;
- (h) the cutting of any tree, hedge or branch of any tree projecting on a public street or situated within a water-course and thus obstructing the free flow of water :

Provided that nothing in this clause shall be deemed to authorise the Panchayat the removal wholly or in part of any royal trees without the written permission of the Department concerned.

73. Subject to the instructions issued by the Government under any Act or rule made therein it shall be the duty of the Panchayat to bring under cultivation all the cultivable land situated within its area and to see that no cultivable land in the Panchayat area remains fallow : Cultivation of land.

Provided that nothing contained in this section shall authorise the Panchayat to bring under cultivation lands like Kahcharai, burial or cremation grounds, village roads and other lands that are not open for cultivation under any law for the time being in force :

Provided also that no order under this section shall be issued by the Panchayat in respect of any area of land that the Government by notification declare reserved for specific purposes.

74. It shall be the duty of the Panchayat to regulate the construction of the new buildings or the extension or alteration of any existing building within the village *abadi*. Construction of buildings.

When a Panchayat stops the construction of a new building it shall provide the owner of the proposed building with a new site for the construction of the building and may impose such conditions for the new construction as it may think necessary for the protection of the village from fires and other natural calamities.

75. Subject to such rules as may be prescribed it shall be the duty of the Panchayat within the limits of its finances to make arrangements for carrying out the requirements of the Panchayat area in respect of the following matters :— Other compulsory functions.

- (a) the excavation, maintenance, improvement and disinfection of wells, tube-wells, ponds, tanks for the supply of water for drinking, washing and bathing purposes;
- (b) the construction of reservoirs and the maintenance, improvement and disinfection of springs and the maintenance in proper condition of machinery for the supply of water for drinking, washing and bathing purposes;
- (c) the establishment and maintenance of burial and burning grounds;
- (d) elementary education, including securing the attendance of boys and girls of school going age in the schools;
- (e) the cleaning and lighting of streets, the removal of rubbish heaps and jungle growth, the filling in of disused wells, insanitary ponds, pools, ditches, pits or hollows and other improvements of the sanitary conditions of the village;
- (f) the provision of public latrines, and arrangement to clean latrines whether public or private;
- (g) the control and management of cattle pounds;
- (h) the maintenance of markets;
- (i) the maintenance of public libraries and reading rooms;

- (j) any other matter which Government may by notification declare to be a suitable subject for the administration by Panchayats generally or by any particular Panchayat :

Provided that nothing in clause (j) of this section shall be deemed to impose any duty or confer any power upon the Panchayat with respect to any matter under the direct administrative control of any Department of the Government or to authorise the Panchayat to interfere with any existing legal rights.

Discretionary
powers of the
Panchayat.

76. A Panchayat may make provision for :—

- (a) the excavation and maintenance of tanks and ponds;
- (b) the relief of the poor and sick;
- (c) the organization and celebration of public festivals other than religious festivals ;
- (d) the laying out and maintenance of public gardens and play-grounds;
- (e) the promotion and encouragement of cottage industries;
- (f) the extension of village sites;
- (g) other measures of public utility calculated to promote the safety, health, comfort or convenience of the villagers;
- (h) medical relief including maternity and child welfare;
- (i) veterinary relief;
- (j) registering births, deaths and marriages;
- (k) the maintenance of public radio sets;
- (l) the lighting of public ways and places;
- (m) the construction, maintenance and improvement of buildings or other structures so far as they are likely to promote the safety, health, welfare and convenience of the village and of visitors thereto;
- (n) supply to the cultivators within its area on such conditions and subject to such restrictions as it may lay down of improved implements, chemical fertilizers, improved livestock, poultry, birds and other accessories required for improving their economic condition and may adopt all necessary measures to ensure that proper and legitimate use is made of the articles so supplied;
- (o) any other matter with the previous approval of Government.

Improvement
of sanitation.

77. For the improvement of sanitation, a Panchayat may, by notice, direct the owner or occupier of any land or building taking into consideration his financial position and giving him reasonable time for compliance thereof :—

- (a) to close, remove, alter, repair, cleanse, disinfect or put in good order any latrine, urinal, water-closet, drain, cesspool or other receptacle for filth, sullage water, rubbish or refuse pertaining to such land or

building or to remove or alter any door or trap or construct any drain for any such latrine, urinal or water-closet which opens on to a street or drain, or to shut off such latrine, urinal or water-closet by a sufficient roof and wall or fence from the view of persons passing by or dwelling in the neighbourhood;

- (b) to cleanse, repair, cover, fill up, drain off, deepen or to remove water from a private well, tank, reservoir, pool pit, depression or excavation therein which may appear to the Panchayat to be injurious to health or offensive to the neighbourhood;
- (c) to clear off any vegetation, undergrowth, prickly pear or scrub-jungle;
- (d) to remove any dirt, dung, night-soil, manure or any noxious or offensive matter therefrom and to cleanse the land or building:

Provided that a person on whom a notice under clause (b) is served may, within 30 days of the receipt of the notice, appeal to the prescribed authority against the said notice who may vary, set aside or confirm it.

78. (1) The Panchayat may construct or provide and maintain public landing places, halting places and vehicle stands and may levy fees for the use of the same. Provision of Vehicle Stand.

(2) No private person shall provide a new vehicle stand or maintain an existing vehicle stand within the Panchayat area unless he obtains from the Panchayat a licence to do so.

79. (1) A Panchayat may provide a place or places for use as a public slaughter-house and may charge fees for the use of the same. Slaughter-house.

(2) The Panchayat may prohibit the slaughter of animals for sale in any place in the village except in a public slaughter-house provided by the Panchayat.

80. (1) A Panchayat may by notice in writing specifying a reasonable period :— Power to require removal of encroachments and nuisances.

- (a) require the owner or occupier of any building to remove any encroachment on a public way or drain;
- (b) require the owner or occupier of any land, well, water-pump or building which includes or is attached to any latrine, pool or ditch, containing or used for the collection of any drainage filth or stagnant water, which is a nuisance to the neighbourhood to take such action as the Panchayat may deem reasonably necessary to remove the nuisance;
- (c) require the owner of any well or building which is deemed by the Panchayat to be in any way dangerous to remove or repair such well or building;
- (d) require the owner or occupier of any building or property to keep his building or property in a sanitary state;

- (e) require the owner of any dog or other animal suffering or reasonably suspected to be suffering from rabies or bitten by any dog or any other animal suffering or suspected to destroy or cause to be destroyed or confined or cause to be confined such dog or animal.

(2) If any work required to be done under this section is not executed within the period prescribed in the notice the Panchayat may itself cause such work to be executed and recover a sum not exceeding the cost thereof from the owner or occupier to whom notice is given.

Power to make general orders.

81. A Panchayat may by general order to be published in the manner prescribed:

- (a) regulate the collection, removal and disposal of manure and street sweepings ;
- (b) prohibit the use of the water of wells, ponds or other excavations suspected to be dangerous to the public health;
- (c) regulate or prohibit the watering of cattle or bathing or washing at or near wells, ponds or other excavations reserved for drinking water;
- (d) regulate or prohibit the steeping of trees or any other plant or part of a plant or trees in or near ponds or other excavations within two hundred and twenty yards of the residential area of a village;
- (e) regulate or prohibit the dyeing or tanning of skins within two hundred and twenty yards of the residential area of a village, provided that where the dyeing or tanning of skins was so practised at the time of the establishment of the Panchayat, it shall not be prohibited unless the Panchayat provides reasonable facilities for practising it outside the two hundred and twenty yards limit;
- (f) regulate or prohibit the excavation of earth or other materials within two hundred and twenty yards of the residential area of a village; provided that nothing shall be done under this clause to prevent excavations meant to be filled by the foundation of buildings or other structures;
- (g) regulate or prohibit the establishment of brick kilns within two hundred and twenty yards of the residential area of a village; and
- (h) regulate the disposal of carcasses of all animals dying within the village.

Power to make recommendations to proper authority.

82. A Panchayat may make to proper authority any representation concerning the welfare of the persons residing within the Panchayat area.

Register of voters.

83. Every Panchayat shall maintain a register of voters within its area in the prescribed form.

84. Every Panchayat shall call a general meeting of its voters at least once in a year in the prescribed manner for the purposes of discussing its budget and any other matter which may be brought before it by any member of the Panchayat or a voter. Village Meetings.

85. A Panchayat may as prescribed and in respect of any area within its jurisdiction enter into a contract with the Government to collect any taxes or dues payable to the Government on being allowed by the Government such collection charges as may be prescribed. Power to collect taxes on behalf of Government.

86. (a) A joint committee of such number of Panchayats as the prescribed authority may determine shall be constituted for purposes in which they are interested and for any matter or matters for which they are responsible and for mutual help and co-operation in the discharge of all or any of the duties imposed under this Act. Joint Committee.

(b) Such joint committee may undertake the execution and maintenance of any work in which more than one Panchayat is interested, provided the Panchayats concerned agree and contribute towards the cost of such work.

(c) The composition of these committees, the functions that they should perform and their working shall be subject to such rules as may be prescribed.

87. A Panchayat may delegate to any of its members or a committee composed of its members or other suitable persons any of its powers, except judicial powers, or any function relating to a particular branch of the administration or may appoint any member of any such committee to enquire into or report on any matter within its jurisdiction. Delegation.

88. The Government may, in accordance with rules made under section 119 call upon a Panchayat to assist officers of the Government in the performance of their duties within the Panchayat area and such assistance as may be in its power shall be rendered by the Panchayat. Panchayat to assist general administration.

89. Subject to such rules as the Government may make in this behalf, a Panchayat may frame bye-laws for the conduct of business and generally for carrying out the purpose of this Act. Power to frame bye-laws.

90. (1) Subject to such rules as may be prescribed in this behalf a Panchayat, a joint committee or a Tehsil Panchayat Board, shall appoint Secretary and propose to the prescribed authority the staff, whole-time or part-time, it proposes to employ, the salaries and allowances, if any, to be paid to them and the duties to be assigned to each one of them. Staff.

(2) The prescribed authority may as prescribed approve, modify or reject the proposal.

(3) The Panchayat, a joint committee or a Tehsil Panchayat Board may appoint the staff in accordance with the scheme as approved by the prescribed authority.

CHAPTER VIII

PENALTIES AND PROCEDURE

**Penalty for
resistance to
Panchayat.**

91. If any person obstructs, delays, insults, annoys or creates any hindrance in the working of the Panchayat or in the exercise by the Panchayat of its powers under Chapter III, the Panchayat shall be competent to punish such person subject to the confirmation of the prescribed authority with fine not exceeding rupees ten.

**Contribution
of manual
labour.**

92. (1) Subject to the rules to be prescribed in this behalf the Panchayat may for the purpose of carrying out of all or any of the duties and functions mentioned in sections 72, 75 and 76 call upon the able-bodied male residents of the Panchayat area to render manual labour :

Provided that a person may instead of rendering manual labour deposit in cash with the Panchayat within a period that may be fixed by it an amount equal to double the wages calculated in accordance with the rate of wages prevailing in the village as determined by the Panchayat or by an officer authorised by the prescribed authority in this behalf :

Provided further that an officer of the Panchayat Department duly authorised by the prescribed authority in this behalf may exempt by an order in writing giving reasons any person from rendering manual labour.

(2) The Panchayat may if it feels dissatisfied with the order of the said officer appeal to the prescribed authority for setting it aside and it may be confirmed, amended or quashed by the prescribed authority whose finding shall be final.

**Penalty for
obstructing
administrative
functions.**

93. Whoever contravenes any of the orders issued by a Panchayat in accordance with the provisions of sections 72 to 81 or obstructs or otherwise causes hindrance in the carrying out by the Panchayat of the duties under section 92 shall be punishable by the Panchayat with fine which may extend to Rs. 5 and when the breach is a continuous one a further fine which may extend to Rs. 2 for every day after the first conviction during which an offender is proved to have persisted in the offence.

**Penalty for
damaging
Panchayat
property.**

94. Whoever removes, displaces, wilfully damages or causes damage through negligence to :—

- (a) embankments or bunds constructed by the Panchayat;
- (b) any road, pavement, gutter, culvert, bridge, cross drain or other material of a public street;
- (c) any fence, wall or post, lamp-post, well, bath-room, latrine, radio-set machinery, water-pump, water reservoirs, hand-pump belonging to the Panchayat;
- (d) any other property of the Panchayat;

shall be punishable by the Panchayat with fine which may extend to Rs. 10 :

Provided that no fine shall be imposed if the person or persons concerned have written sanction of the Panchayat or of the prescribed authority to remove or displace any such property of the Panchayat or to do any act in exercise of any right created by grant or contract sanctioned by Panchayat or such authority.

95. (1) Whoever—

- (a) sets fire to a Panchayat plantation or any part thereof or kindles any fire or leaves any fire burning in such manner as to endanger such a plantation; **Penalty for damaging plantation.**
- (b) kindles, keeps or carries any fire in a plantation except at such section as the prescribed authority may from time to time notify in this behalf;
- (c) causes any damage by negligence in felling any tree, cutting or dragging any tree;
- (d) fells, girdles, lops or burns any tree or strips of the bark or leaves from or otherwise damages the same;
- (e) in such plantation or part thereof duly declared to be closed by the prescribed authority, trespasses cattle or pastures cattle or permits cattle to trespass;

shall be punishable by the Panchayat with fine which may extend to Rs. 10.

(2) Nothing in this section shall be deemed to prohibit—

- (a) any act done by permission in writing of the Panchayat or under the orders of the prescribed authority;
- (b) the exercise of any right created by grant or contract in writing or concessions made on behalf of the prescribed authority.

96. If through any act, neglect or default on his part a person has incurred a penalty imposed by sections 94 and 95 and has caused damage to the property of a Panchayat, the person incurring such penalty shall be liable to make good such damage as well as to pay such penalty and the damages may be recovered from the offender in the prescribed manner. **Recovery of damages.**

97. (1) If a notice has been given to a person under the provisions of this Act or any rule or bye-law made thereunder to a person requiring him to execute a work in respect of any property, movable or immovable, public or private, or to provide or to do or refrain from doing anything within a time specified in the notice and such person fails to comply with the notice the Panchayat may cause work to be executed or such thing to be provided or done and may recover all expenses incurred by it on such account from the said person in the prescribed manner. **Disobedience to notice issued.**

(2) Any person who disobeys a notice under sub-section (1) shall on conviction by the Panchayat be punished with a fine which may extend to Rs. 10 and in case of continuing

breach with a further fine which may extend to one rupee for every day after the first during which the breach continues.

Notice not to be invalid. **98.** No notice shall be invalid on account of any defect or omission in its form.

Appeals. **99.** (1) Any person aggrieved by an order or direction made under sections 93, 94, 95, 96 and 97 of this Act or under any rule or bye-law may unless otherwise prescribed within 30 days from the date of such direction or order, exclusive of the time requisite for obtaining a copy thereof, appeal to such authority as the Government may appoint in this behalf who may vary, set aside or confirm the said order or direction and may also award costs to or against the person filing the appeal.

(2) The authority authorised by the Government under sub-section (1) may, if he thinks fit, extend the period allowed by sub-section (1) for appeal.

(3) The decision of the Authority authorised by the Government under sub-section (1) shall be final and shall not be questioned in any court of law.

Suspension of prosecution in certain cases. **100.** When an appeal has been filed against an order or direction under section 99 any proceeding to enforce such order or direction and any prosecution for the breach thereof may by order of the authority authorised by the Government under section 99 pending the decision of the appeal and if such order or direction is set aside on appeal, disobedience thereof shall not be deemed to be an offence.

Power to compound offence. **101.** (1) Subject to any rule, made in this behalf a Panchayat may either before or after the institution of any case compound an offence against this Act or any rule or bye-law made thereunder on payment of such sum in cash to the Panchayat as may be prescribed.

(2) When an offence has been compounded the offender shall be discharged and no further proceedings shall be taken against him in respect of the offence so compounded.

CHAPTER IX

ESTABLISHMENT AND CONSTITUTION OF TEHSIL PANCHAYAT BOARDS

Constitution of Panchayat Boards. **102.** (1) In every Tehsil the prescribed authority shall establish a Panchayat Board.

(2) The Panchayat Board shall comprise of one representative (not being a member of the Panchayat) from each Panchayat area in the Tehsil and such officials as may be co-opted by such representatives from time to time.

(3) Representatives from each Panchayat area shall be selected by the members of the respective Panchayats.

103. (1) The term of office of every non-official member of the Panchayat Board shall be co-extensive with the term of office of members of the Panchayat he represents :

Provided that a person shall cease to be a member of the board if the Panchayat he represents recalls him or if he becomes subject to any disqualification mentioned in section 7 of this Act as if he were a candidate for membership of the Panchayat.

(2) When a person is recalled or otherwise vacates from the membership of the Board, another person shall forthwith be selected by the Panchayat to replace him.

104. The non-official members of the Panchayat Board shall annually elect from among themselves a person who is able to read and write to act as Chairman of the Board.

105. The Chairman of the Board shall have such powers and exercise such functions as may be assigned to him by the Government.

(2) He shall constitute from among the non-official members of the board a bench of five members to be named as "Judicial Committee".

(3) The Judicial Committee shall decide all cases mentioned in section 118.

106. To assist the Panchayat Board in carrying out the administrative functions and duties prescribed authority may authorise the Chairman of a Panchayat Board to appoint an Executive Committee. The Executive Committee shall meet at such place and at such time as the prescribed authority may determine.

107. The following shall be the functions and duties of the Board :—

- (1) to establish a judicial committee for deciding cases mentioned in section 118;
- (2) to draw plans for the development of the Tehsil in respect of :—
 - (a) improvement of communications;
 - (b) improvement of irrigation facilities;
 - (c) opening and location of Government Dispensaries and Unani and Ayurvedic Hospitals;
 - (d) opening and location of new Veterinary Dispensaries;
 - (e) granting of stud-bulls for improvement of the breeds of cattle;
 - (f) opening and location of dairy farms, poultry farms and bee-keeping centres;
 - (g) procurement for and distribution within the Tehsil of improved seed, chemical fertilizers, improved implements and other accessories calculated to improve the agricultural practices therein;

- (h) adoption of anti-erosion measures and making arrangements for the provision of technical assistance and guidance to the Panchayats for this purpose;
- (i) any other matter that the prescribed authority may declare to be necessary;
- (j) opening and location of new schools:

Provided that nothing in this sub-section shall empower the Board to take up any work that initially falls within the administrative function and duties of the Panchayats.

Panchayat Board Fund.

108. Every Panchayat Board shall have a fund to be called the "Board Fund" which shall be administered by the Board subject to rules made by the Government and shall be utilised for meeting necessary expenditure and charges made and incurred in connection with the performance of its duties and functions under this Act.

Income of Panchayat Board.

109. The following receipts shall be credited to the Board Fund :—

- (a) 60% of the Revenue from the road cess of the Tehsil;
- (b) a contribution of 5% of their annual income, by the individual Panchayats within the Tehsil;
- (c) fees levied for the institution of appeals and review applications that come up for disposal before the Board;
- (d) contribution by the Government or private persons.

CHAPTER X

CONTROL

Delegation of powers.

110. The Government may by notification subject to such restriction or condition as considered necessary to impose, delegate all or any of its powers under the Act, other than the power to make rules to such authority or authorities, as it may from time to time notify in this behalf.

Inspection.

111. The prescribed authority or any person duly authorised by it in writing in this behalf may :—

- (a) cause to be inspected any immovable property owned, used or occupied by a Panchayat, a joint committee or a Panchayat Board or any work in progress under the directions of such Panchayat, Joint Committee or Panchayat Board;
- (b) by an order in writing call for and inspect a book or document in the possession or under the control of a Panchayat, Joint Committee or a Panchayat Board;
- (c) by an order in writing require a Panchayat or Joint Committee or Panchayat Board to furnish such statements, reports or copies of documents, relating to the proceedings or duties of the Panchayat or such committee or Panchayat Board as it thinks fit;

- (d) record in writing for the consideration of a Panchayat or Joint Committee or Panchayat Board any observation which it thinks fit in regard to the proceedings or duties of such Panchayat or Joint Committee or Panchayat Board;
- (e) institute any enquiry in respect of any matter relating to a Panchayat, or Joint Committee or Panchayat Board.

112. (1) The prescribed authority may by written order suspend the execution of any resolution or order of the Panchayat other than an order passed by a Panchayat in judicial proceedings or prohibit the doing of any act which is about to be done or is being done under cover of this Act. Power to suspend the action of Panchayat.

(2) The prescribed authority may, after satisfying itself as to the legality or propriety of any executive order passed by the Panchayat, revise or modify such order as it shall deem fit.

CHAPTER XI

MISCELLANEOUS

113. (1) Every Panch or member of a Committee or Joint Committee or servant of a Panchayat appointed under this Act shall be deemed to be a public servant. Panch to be a public servant.

(2) No action, civil or criminal, shall lie against any Panchayat or Panch or a paid servant of the Panchayat in respect of any act performed in good faith in exercise of the powers conferred or in discharge of duties imposed upon a Panchayat or Panch under this Act.

114. (1) It shall be the duty of every Panchayat to enquire and report in any case where a Magistrate has directed that the previous local investigation be made by a Panchayat under section 202 of the Code of Criminal Procedure and the words "such other persons" in the said section shall be deemed to include a Panchayat. Local enquiry by Panchayat.

(2) No Panchayat shall be required to hold a local enquiry outside the Panchayat area.

115. (1) Every Panch shall be liable to the Panchayat for the loss, waste or misapplication of any money or other property belonging to the Panchayat, if such loss, waste or misapplication is caused in consequence of his neglect or misconduct in the discharge of his duties or performance of such function as such Panch. Liability of Panches.

(2) The prescribed authority may on the application of the Panchayat or any rate payer and after giving to the Panch concerned an opportunity of being heard summarily assess by order in writing the amount due to the Panchayat on account of such loss, waste or misapplication.

(3) Any person aggrieved by an order made under subsection (2) may within one month of the date of such order appeal to the Government but subject to the result of such appeal the order shall be final and shall be conclusive proof of the amount so due.

Performance of duties of defaulting Panchayats.

116. (1) If a Panchayat makes default in the performance of any duty under this Act or any other law for the time being in force, the prescribed authority may fix a period for the performance thereof and in case of default may appoint any person or other body corporate to perform it and may direct that the expenses arriving from and incidental to its performance shall be paid by the Panchayat within a period fixed by it.

(2) If such expenses are not paid, the prescribed authority may make an order directing the person having custody of the Panchayat fund to make the payment out of or to the extent of that fund as the case may be and if such person does not comply with the order recover the amount from him.

Prevention of offences relating to weights and measures.

117. (1) The Sarpanch of a Panchayat or any person authorised by him in this behalf may examine and test the weights and measures in markets and shops in the Panchayat with a view to the prevention and punishment of offences relating to such weights and measures under sections 264 and 265 of Ranbir Penal Code and shall seize such weights and measures if he has reasons to believe them to be false.

(2) After seizure the Panchayat shall report the matter to the nearest Magistrate having jurisdiction in the Panchayat area for such action as may be necessary under law.

Revision of the judicial findings of Panchayat.

118. (1) The Judicial Committee constituted under section 105 may on the application of the party aggrieved by a decision of a Panchayat or on its own motion, by order in writing after notice to the parties concerned cancel or modify any order of acquittal, conviction or compensation or a decree of a Panchayat or an order dismissing a suit passed by a Panchayat or direct the retrial of any case or suit by the same or any other Panchayat if it is satisfied that there has been a failure of justice :

Provided that when the Judicial Committee converts an acquittal into a conviction it shall not inflict a greater punishment than might have been inflicted for such offence by the Panchayat whose order is under revision.

(2) A fee of rupee one shall be paid on every application made under sub-section (1).

Power to make rules.

119. (1) The Government may make rules consistent with this Act for carrying out the purposes thereof, and may provide that the breach of any such rules shall be punishable with a fine which may extend to twenty-five rupees.

(2) In particular, and without prejudice to the generality of the foregoing power, the Government may make rules :—

- (a) with reference to all matters in respect of which rules are expressly required or allowed by this Act to be made or prescribed;
- (b) regulating the establishment, supervision, suspension or dissolution of a Panchayat;

- (c) regulating the registration of electors, nomination of candidates, time of election, mode of recording votes, method of settling disputes and questions arising out of elections and penalty to be imposed on candidates for adopting corrupt practices in elections;
- (d) regulating the procedure to be followed under section 7 (1) and fixation of period of disqualification thereunder;
- (e) regulating the filling of casual vacancies;
- (f) regulating the appointment, term of office, suspension and removal of a Sarpanch;
- (g) regarding the conduct of meeting of Panchayat;
- (h) regulating the functions and powers of the Sarpanch;
- (i) regulating the exercise by a Panchayat of any of its powers under this Act and in particular its power to sue and to acquire, hold or transfer property and to enter into contracts;
- (j) regulating the assessment and collection of rates and taxes, appeals against assessment and collection of rates and the custody and proper maintenance of the Panchayat fund;
- (k) regarding the appointment of the officers and servants of a Panchayat and their salary and regarding the allowances that may be paid to Panchayat members;
- (l) regarding the procedure of a Panchayat in the exercise of its judicial and administrative powers under this Act;
- (m) regarding the fees payable under this Act;
- (n) regarding the procedure to be followed under sections 78, 79, 80 and 81;
- (o) regarding the powers to enquire and make reports about misconduct of officials specified in the rules and also to supervise the work of the village chowkidars;
- (p) regarding the procedure to be followed in framing the budget and earmarking funds for specific purposes;
- (q) regarding powers of auditors inspecting and superintending authorities to hold enquiries summoning and examining witnesses, compelling the production of documents and all other matters connected with audit, inspection and superintendence;
- (r) regarding channel of correspondence between Panchayat and other authorities;
- (s) regarding the action to be taken on the inclusion of the whole or part of a Panchayat area in any Municipality, notified area, town area or cantonment and the manner in which the assets and liabilities of the Panchayat may be disposed of in such circumstances;

- (t) regarding the disposal of assets and liabilities of a Panchayat on its abolition;
- (u) regarding the establishment of committees and determination of all matters relating to the constitution and procedure of such committees;
- (v) regarding the method and time of payment of taxes and other dues, the procedure of recovery and authority whose assistance may be taken by the Panchayat in the recovery of taxes and dues;
- (w) regarding the procedure to be followed under sections 62, 116 and 117 of this Act ;
- (x) regarding the establishment and constitution of Tehsil Panchayat Boards, election of Chairman and of the Board, constitution of Judicial Committee and Executive Committee, the appointment of staff of the Board and the management of the Panchayat Board Fund;
- (y) regarding the procedure to be followed under section 107 of this Act and with respect to issuing of instructions by the Government to the various Departments to consult the Tehsil Panchayat Boards in respect of matters specified in sub-section (2) of that Section.

Repeal of **120.** (1) The Jammu and Kashmir Village Panchayat Act, 1992, is hereby repealed.

Village Pan-
chayat Act,
1992.

(2) But all Panchayats established, notifications issued, powers conferred, jurisdiction vested, forms prescribed, local limits defined, orders, rules and appointments made, suits or cases instituted, records framed, rights acquired, liabilities incurred and actions taken under the said Act shall be deemed to have been respectively established, issued, conferred, vested, prescribed, defined, made, instituted, framed, acquired, incurred and taken under this Act and shall remain in force until repealed or modified either expressly or by implications by competent authority under this Act.

THE SCHEDULE

PERIOD OF LIMITATION FOR CERTAIN SUITS

Description of Suit	Period of Limitation	Time from which period begins to run
(1) For the Wages of a household servant, artisan or labourer.	One year	When the wages fall due.
(2) For the price of food or drink sold by a keeper of a hotel, tavern or lodging house.	One year	When the food or drink is delivered.
(3) For the price of lodging.	One year	When the price becomes payable.

THE MYSORE VILLAGE PANCHAYATS AND DISTRICT BOARDS ACT, 1952

Mysore Act No. IV of 1952

An Act to amend and consolidate the law relating to local bodies in rural areas in the State of Mysore.

WHEREAS it is expedient further to amend and consolidate Preamble.
the law relating to local bodies in rural areas in the State
of Mysore ;

It is hereby enacted as follows :—

Part I—General

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Mysore Village Pan- Short title,
chayats and District Boards Act, 1952. extent and
commence-
ment.

(2) It extends to the whole of the State of Mysore :

Provided that the Government may, by notification in
the *Mysore Gazette*, exclude from the operation of this Act,
any village forming part of a local area under the adminis-
tration of a town board or a sanitary board.

(3) This section shall come into force at once. The other
sections of this Act shall come into force in any district or
part of a district on such date as the Government may, by
notification in the *Mysore Gazette*, appoint in this behalf.

2. In this Act, unless there is anything repugnant in the Definitions.
subject or context—

- (1) “building” includes a house, shop, warehouse,
workshop, hut or shed ;
- (2) “Commissioner” means the Commissioner for Local
Self-Government appointed by the Government ;
- (3) “dangerous disease” means cholera, plague, small-
pox and any endemic or epidemic or infectious
disease by which the life of man is endangered ;
- (4) “Deputy Commissioner” includes the officer in
charge of the revenue administration of a part of
a district declared to be a district under clause (5)
for the purposes of this Act ;
- (5) “district” means any local area which, for the
purposes of the collection of land revenue, shall
have been placed for the time being, under the
charge of a Deputy Commissioner of a district ;
- (6) “District Board” means any Board constituted under
this Act ;
- (7) “Government” means the State Government ;

- (8) "land revenue" means all sums and payments received or claimable by or on behalf of Government, from any person on account of land held by, or vested in, him ;
- (9) "market" means a place where goods or animals are publicly exposed or brought for sale periodically;
- (10) "Panchayat" means a panchayat constituted under this Act;
- (11) "prescribed" means prescribed by rules made under this Act ;
- (12) "public ferry" means a ferry used for the conveyance for hire of any passenger, animal, cart, carriage or other vehicle or goods ;
- (13) "public market" means a market which a District Board opens under section 97 or a market the control over which is or may be vested in Panchayat by the Government ;
- (14) "taluk" includes a sub-taluk ;
- (15) "village" means a local area recognised by the Government as a village for purposes of collecting the land revenue and includes a *dakhle* village and an alienated village, but does not include a local area which is constituted as a municipality or a village which is, under the proviso to sub-section (2) of section 1, excluded from the operation of this Act ;
- (16) "village forest" means a forest constituted as such under the Mysore Forest Act, 1900.

Part II—Village Panchayat

CHAPTER II

CONSTITUTION OF PANCHAYAT

Establishment of Panchayats.

3. (1) The Government shall, subject to the provision of this section and to such rules as may be made by them in this behalf, establish a Panchayat for every village or group of adjoining villages and shall have power by a notification in the *Mysore Gazette* to vary, as occasion may demand, the grouping of villages:

Provided that the Government shall, before a Panchayat is established for a group of villages, or a re-grouping of villages is effected, publish, in such manner as may be prescribed, a notice of their proposal to do so and consider any objections that may be preferred within one month of such publication.

(2) In establishing a Panchayat for a village or group of adjoining villages, the Government shall, as far as may be, establish one Panchayat for a population of not less than 2,000 nor more than 5,000 :

Provided that the Government may, in exceptional cases, establish a panchayat for a village or a group of villages with a population of less than 2,000 but more than 1,000.

4. Every Panchayat shall be a body corporate by such name being the name of the village or one of the villages in a case where a Panchayat has been established for a group of villages, as the Government may determine and shall have perpetual succession and a common seal, and shall sue or be sued by the said name. Subject to any rules made by the Government in this behalf, it shall also have power to acquire, hold or transfer property, movable or immovable, whether within or without the limits of the area over which it has authority, enter into contracts and do all things necessary for all or any of the purposes of this Act. Incorporation of panchayats.

5. (1) A Panchayat shall consist of such number of members being not less than 10 nor more than 20 as may be determined by the Government, subject to rules framed by the Government in this behalf : Strength of Panchayats and election of members.

Provided that where a Panchayat is established for a group of villages, there shall ordinarily be at least one member for each village in the Panchayat.

(2) The members shall be elected, and bye-election shall also be held, in such manner as may be prescribed.

6. Seats shall be reserved in a Panchayat for the Scheduled Castes, the number of such seats bearing, as nearly as may be, the same proportion to the total number of seats in the Panchayat, as the population of the Scheduled Castes in the village or group of villages served by a Panchayat bears to the total population of the village or villages : Reservation of seats.

Provided that at least one seat shall be reserved in a Panchayat for the Scheduled Castes :

Provided further that this section shall cease to have effect after ten years from the commencement of this Act ;

Provided further that the second proviso to this section shall not affect any representation in a Panchayat until the expiry of the term of office of its members.

7. (1) If two-thirds of the number of voters in a village included within a group of villages under the jurisdiction of a Village Panchayat, elect to have their village brought under the jurisdiction of any other Village Panchayat, such village may, with the consent of the latter Village Panchayat, be brought under its jurisdiction, and after a period of not less than five years, may similarly be brought within the jurisdiction of another Village Panchayat. Conditions under which a village under one Panchayat may be included under another Panchayat.

(2) If two-thirds of the number of voters in any village included in a group of villages under the jurisdiction of a Village Panchayat elect to have a Village Panchayat constituted for their village, such village may be constituted as a Village Panchayat under this Act.

Qualifications
of voters.

8. Every person who is a resident of a village and has completed twenty-one years of age, on such date with reference to each election as may be prescribed by the Government shall, unless disqualified, be entitled to vote at an election of members of the Panchayat of that village.

Disqualifi-
cation of
voters.

9. No person may vote—

- (a) who is of unsound mind; or
- (b) who is sentenced by a criminal court to imprisonment for an offence punishable with imprisonment for a term exceeding six months :

Provided that (1) the offence is not of a political character or is one which involves moral turpitude, (2) such sentence has not been subsequently reversed or quashed; or

- (c) who is adjudicated an insolvent; or
- (d) who has been ordered to find security for good behaviour under section 118 of the Code of Criminal Procedure; or
- (e) who has been removed from office under section 11 :

Provided that the disqualification—

- (1) under clause (b) will, in the case of a person sentenced to imprisonment for a term not exceeding three months, cease to operate after one year after the expiry of the sentence, and in all other cases, after three years after the expiry of the sentence;
- (2) under clause (d) will cease to operate after expiry of the period during which the person is ordered to furnish security ;
- (3) under clause (e), will cease to operate after the expiry of three years from the date of such removal .

Qualifications
of candidates.

10. Every person who is entitled to vote at an election and is not less than twenty-five years of age on the date appointed for the presentation of nominations shall be qualified to be elected as a member.

Removal of
members of
Panchayat.

11. The Commissioner may, on a resolution of a Panchayat for the removal of a member, passed by a majority of not less than two-thirds of the total number of members, remove such member after giving him an opportunity of being heard and after such enquiry as he deems necessary, if such member has been guilty of misconduct in the discharge of his duties, or of any disgraceful conduct, or refuses to act or becomes incapable of acting. The order of the Commissioner shall be final.

Removal of
Chairman.

12. The Commissioner may remove a Chairman from his office for misconduct, or neglect of, or incapacity to perform his duty or for any disgraceful conduct, after giving him an opportunity of being heard and after such enquiry as the Commissioner deems necessary. An appeal shall lie to the Government from the order of the Commissioner.

13. (1) If any person who is not qualified for election is elected to a Panchayat, his seat shall be declared to have become vacant by the Deputy Commissioner and if any member of a Panchayat becomes disqualified during the term for which he has been elected, he shall cease to be a member and in either case, the vacancy shall be filled up in the manner prescribed.

Vacation of
seats.

(2) If any question, dispute or doubt arises regarding any vacancy under this section, the orders of the Deputy Commissioner shall be final for the purpose of deciding such question, dispute or doubt.

14. Except as otherwise provided in this Act, members of a Panchayat shall hold office for a term of four years :

Term of office
of members
of a Pancha-
yat.

Provided that the Government may, for reasons to be stated in writing, extend the said period to a term not exceeding in the aggregate five years.

15. (1) For every Panchayat there shall be a Chairman who shall be elected by the members of the Panchayat from among themselves.

Election of
Chairman.

(2) Whenever the office of Chairman becomes vacant, the Panchayat shall choose another member to be Chairman.

16. (1) A member of a Panchayat may resign his seat in writing under his hand addressed to the Chairman and his seat shall become vacant on the expiry of fifteen clear days, from the date of such resignation unless within such period of fifteen days, he withdraws such resignation by writing under his hand addressed to the Chairman.

Vacancy in
the office of
Chairman or
Member.

(2) A member holding office as Chairman may resign his office at any time by writing under his hand addressed to the Deputy Commissioner and his office shall become vacant on the expiry of fifteen clear days from the date of such resignation, unless within the said period of fifteen days he withdraws such resignation by writing under his hand addressed to the Deputy Commissioner.

(3) Every Chairman shall vacate his office if he ceases to be a member of the Panchayat.

17. The jurisdiction of a Panchayat shall extend over the area comprised within the revenue boundaries of the village or villages for which the Panchayat has been established.

Jurisdiction of
panchayat.

CHAPTER III

CONDUCT OF BUSINESS

18. Subject to such rules as may be made by the Government in this behalf, the Commissioner shall appoint a Secretary to be in charge of one or more Panchayats specified by the Commissioner.

Appointment
of Secretary.

Procedure for
meetings of
Panchayat.

19. (1) Subject to the provisions of this section and to such rules as may be made by the Government in this behalf, a Panchayat shall, in the transaction of its business, follow such procedure as may be set out in bye-laws made under this Act.

(2) The Chairman shall hold a meeting of a Panchayat once at least every month. He may, whenever he thinks fit, and shall, upon the written request of not less than one-half of the members, call a special meeting.

(3) The quorum for a meeting of a Panchayat shall be not less than one-half of the whole number of members of the Panchayat. If, at the time appointed for the meeting or within half an hour thereafter, a quorum is not present, the presiding authority shall adjourn the meeting to such hour on some future day as he may fix. He shall similarly adjourn the meeting at any time after it has begun if his attention is drawn to the want of a quorum. At such adjourned meeting, the business which would have been brought before the original meeting shall be transacted whether there is a quorum present or not, provided that not less than five members are present.

(4) Except as otherwise provided, all questions before a Panchayat shall be decided by a majority of the votes of the members present and voting. The Chairman, unless he refrains from voting, shall give his vote before declaring the number of votes for and against a question, and in case of an equality of votes, he shall give his casting vote.

(5) At every meeting of a Panchayat, the Chairman shall preside and in his absence, the members of the Panchayat present shall choose one of their members to preside thereat.

(6) No act of a Panchayat shall be deemed invalid by reason only that the number of members of the Panchayat at the time of the performance of such act was less than the sanctioned strength or by reason of any irregularity in the election of any member or Chairman of such Panchayat.

Officers and
servants of
Panchayats.

20. (1) Subject to such rules as may be made by the Government in this behalf, every Panchayat may employ such officers and servants and assign to them such pay, allowances, gratuities, pensions and contributions as may be necessary.

(2) The officers and servants appointed by the Panchayat shall be subject to the disciplinary control of the Secretary.

Powers of
Chairman of
Panchayat.

21. Subject to such rules as may be made by the Government in this behalf, every Chairman of a Panchayat shall have the power to—

(1) pass bills and sanction estimates up to a money limit of fifty rupees, provided that provision for such expenditure is made in the sanctioned budget ;

(2) incur contingent expenditure up to five rupees at any one time ;

- (3) operate on the Village Panchayat account including authorisation of payment, issue of cheques and refunds ;
- (4) supervise the general administration of the Panchayat and to inspect works undertaken by it ;
- (5) exercise such other powers as may be conferred by the other provisions of this Act.

22. Subject to such rules as may be made by the Government in this behalf, the Secretary of every Panchayat shall undertake the following duties and exercise the following powers :—

- (1) preparation and maintenance of assessment lists ;
- (2) maintenance of essential statistics ;
- (3) maintenance of accounts and records ;
- (4) recovery of Panchayat dues ;
- (5) execution and supervision of works undertaken by the Panchayat ;
- (6) checking estimates and bills in respect of works ;
- (7) supervision of sanitation and public health measures ;
- (8) convening meetings as required by this Act ;
- (9) maintenance of proceedings of the Panchayat and forwarding copies of such proceedings to prescribed authorities within prescribed periods ;
- (10) subject to general control by the Chairman, power to appoint officers and servants of the Panchayat and to fine, reduce, suspend or dismiss any of them ;
- (11) power to issue bills and notices to defaulters ;
- (12) power to issue distraint warrants and to distraint and seize movables, provided that such warrants are issued under the signature of the Chairman ;
- (13) power to file complaints and suits on behalf of the Panchayat and to conduct proceedings on its behalf ;
- (14) subject to bye-laws made by the Panchayat, to take part in meetings of the Panchayat and to speak thereat but not to vote or move any motion ;
- (15) generally to undertake such duties and exercise such powers as may be conferred or delegated under the provisions of this Act.

CHAPTER IV

FUNCTIONS OF PANCHAYAT

23. It shall be the duty of every Panchayat within the limits of the fund at its disposal, to make adequate provision for carrying out the requirements of the area under its jurisdiction in regard to the following matters :—

- (1) construction, repair and maintenance of village roads including cart tracks, culverts and bridges but not including those under the control of any other local body or of the Government ;

Explanation.—"Village road" in this clause means all roads in the village *thana* and *vonies*, cart tracks and other passages leading to public wells, tanks and agricultural lands.

- (2) construction of drains and disposal of drainage water and sullage ;
- (3) cleansing of streets, drains, tanks and wells (other than tanks and wells used exclusively for irrigation) and other public places or works in the area under its jurisdiction ;
- (4) construction, repair and maintenance of public wells, tanks and ponds for supply of water for drinking, washing and bathing purposes ;
- (5) regulation of buildings, shows, shops, eating and other entertainment houses ;
- (6) removal of encroachments on public streets, public places and property vested in the Panchayat ;
- (7) opening and maintenance of burial grounds ;
- (8) establishment, management and maintenance of cattle pounds ;
- (9) sanitation and conservancy and prevention and abatement of nuisance, taking preventive and curative measures in cases of epidemic ;
- (10) preservation and improvement of public health ;
- (11) maintenance and regulation of the use of public buildings and properties vested in or belonging to the Panchayats ;
- (12) allotment of places for storing manure and the enforcement of provisions for storing under composting methods ;
- (13) carrying out or assisting in any work entrusted by the District Board or the Government ;
- (14) planting and preservation of trees on roads and in other public places ;
- (15) regulation of public jattras, fairs, festivals and shandies except those managed by the District Board or by the Government ;
- (16) maintenance of essential statistics of the village in the form prescribed by the Government ;
- (17) welfare of Scheduled Castes and Scheduled Tribes ;
- (18) regulating sale and preservation of meat in meat-stalls by vendors ;
- (19) licensing of hotels ;
- (20) regulating, curing, tanning and dyeing of skins and hides ;
- (21) extension of village sites ;
- (22) excavation and maintenance of ponds for the supply of water to animals ;
- (23) filling in of insanitary depression and levelling of land by reclaiming unhealthy areas.

- (24) regulating the collection, removal and disposal of manure and sweepings.

24. Subject to such rules as may be made by the Govern- Discretionary
ment in this behalf and subject to the previous approval of functions of
the Commissioner, a Panchayat may, within the limits of Panchayat
the fund at its disposal, make provision for carrying out the
requirements of the area under its jurisdiction in regard to
all or any of the following matters :—

- (1) providing relief for travellers ;
- (2) relief of the poor and the sick ;
- (3) control of cattle stands, grazing grounds and other communal waste land ;
- (4) development of education, library and reading rooms, agricultural co-operation, rural industries and trade ;
- (5) lighting of the village ;
- (6) other measures of public utility calculated to promote the safety, health, comfort or convenience of the residents of the area ;
- (7) the improved breeding and medical treatment of cattle and prevention of cattle disease ;
- (8) construction and maintenance of slaughter-houses ;
- (9) establishment and maintenance of maternity and child welfare centres ;
- (10) medical aid including establishment and maintenance of small dispensaries either singly or in collaboration with other panchayats ;
- (11) control and management of village forests ;
- (12) management of minor muzrai institutions ;
- (13) exercising all the powers and discharging all the functions of a Panchayat under the Tank Panchayat Act ;
- (14) rural security including organisation of *village guards* and other associations for the maintenance of village morale and safety ;
- (15) organising, supervising and controlling rural development or multi-purpose co-operative societies ;
- (16) establish and maintain warehouses.

25. Subject to such rules as may be prescribed by the Institutions
Government, any District Board, the Deputy Commissioner or works
or any private person or body of persons may, with the may be
consent of a Panchayat and subject to such conditions as transferred to
may be agreed upon, make over to it the management of Panchayat.
any institution or the execution or maintenance of any work
or the performance of any duty within the area over which
it has got control.

Power of Government to add to functions of Panchayats.

26. The Government may, subject to such conditions as may be imposed, authorise any Panchayat by a general or special order, to exercise any functions or perform any duties other than those specified in sections 23 to 25.

General powers of Panchayat.

27. A Panchayat shall have power to do all acts necessary for and incidental to the carrying out of the functions entrusted or delegated to it, and in particular and without prejudice to the foregoing power, to exercise the powers specified in sections 28, 29, 30, 31 and 32; and the Panchayat may appoint Committees to perform any of these functions.

Power of Panchayats as to roads, bridges and water-ways.

28. The Panchayat shall have control of all village roads and bridges thereon, cart-tracks, drains, tanks, wells and other public places in the village, not being private property and not being under the control or management of a District Board, Municipal Council or a Government Officer, and may do all things necessary for the maintenance and repair thereof and may—

- (a) lay out and make new roads ;
- (b) construct new bridges ;
- (c) widen, open, enlarge or otherwise improve any road or bridge ;
- (d) divert, discontinue or close any road or bridge ;
- (e) deepen or otherwise improve water-ways ; and
- (f) provide for the lighting of any road or public place within the village.

Control of the erection of buildings.

29. (1) Subject to such rules as may be prescribed, no person shall erect any building or alter or add to any existing building or reconstruct any building without the written permission of the Panchayat. Such permission shall be presumed to have been granted if no refusal of such permission is communicated within two months of the receipt of the application.

(2) Whenever any building is erected, altered, added to or reconstructed without such permission or in any manner contrary to the rules prescribed under sub-section (1) or any conditions imposed by the permission, the Panchayat may—

- (a) direct that the building, alteration, or addition be stopped ;
- (b) by written notice, require such building, alteration or addition to be altered or demolished as it may deem necessary ; or
- (c) withdraw the permission.

(3) An appeal shall lie to the Deputy Commissioner from any order or direction or notice of the Panchayat under sub-section (2), and the decision of the Deputy Commissioner on such appeal shall be final.

30. (1) Notwithstanding anything contained in section 29, the Government may, in the public interest and after consulting the Panchayat concerned, prohibit by notification published in the *Mysore Gazette*, the erection of any building within a specified area in a Panchayat, except with permission granted by the Government in this behalf.

Power of Government to prohibit erection of buildings in certain areas without permission.

(2) The grant of any permission under sub-section (1) may be subject to such conditions as may be fixed by the Government in each case or prescribed generally.

(3) Whoever erects any building contrary to the provisions of sub-section (1) or the conditions imposed under sub-section (2) shall, on conviction, be punished with fine which may extend to two hundred rupees.

(4) The Government may demolish any building erected contrary to the provisions of sub-section (1) or in violation of the conditions imposed under sub-section (2).

31. (1) No place within the jurisdiction of a Panchayat shall be used for the purpose of any trade or business which the Government may, by notification, declare to be offensive or dangerous, except under a licence from the Panchayat and subject to such conditions as may be imposed in the licence.

Prohibition of offensive or dangerous trades without licence.

(2) When a licensee fails to comply with any condition imposed in the licence, the Panchayat may suspend or cancel his licence.

32. (1) No place within the jurisdiction of a Panchayat shall be used as a dairy, hotel, restaurant, eating house, coffee house, sweetmeat shop, bakery, boarding house or lodging house (other than a student's hostel under public or recognised control or a dharmasala or for manufacturing ice or aerated water), without a licence from the Panchayat and except in accordance with the conditions specified therein.

Control of dairies, hotels, etc.

(2) A licence under this section shall be granted or renewed only on payment in advance of such fee as may be prescribed.

(3) The Panchayat may, for reasons to be recorded in writing, refuse to grant or renew a licence or suspend or cancel a licence granted or renewed under sub-section (1) for default of any of the conditions subject to which the licence was granted.

(4) The Panchayat may, having regard to the local conditions, fix the number and category of dairies, hotels, restaurants, eating houses, coffee houses, sweetmeat shops, bakeries, boarding or lodging houses, and places for manufacturing ice or aerated water, and direct by order the closure of such places as may be specified by it used for the purposes aforesaid, in excess of those fixed by it :

Provided that no place shall be directed to be closed except after notice of not less than thirty days. .

(5) Any person aggrieved by the refusal to grant or renew a licence or by the suspension or cancellation of a licence under sub-section (3) or by an order directing the closure of a place under sub-section (4) may, within thirty days of the date of communication of the order, appeal to the Deputy Commissioner; and the decision of the Deputy Commissioner on such appeal shall be final.

Power as to sanitation, conservancy and drainage.

33. (1) If it appears necessary to improve the sanitary condition of any area within its jurisdiction, a Panchayat may, by a written notice, require, within a reasonable period to be specified therein—

- (i) the owner or occupier of any hut or the owner of any privy to remove such hut or privy either wholly or in part ;
- (ii) the owner or occupier of any building to construct private drains therefor or to alter or to remove private drains thereof ;
- (iii) the owner or occupier of any land or building which needs to be cleansed, to cause the same to be cleansed to the satisfaction of the Panchayat ;
- (iv) the owner or occupier of any land or building which contains a well, pool, ditch, pit, pond, tank or any place containing or used for the collection of any drainage, filth or stagnant water which is injurious to health or offensive to the neighbourhood or is otherwise a source of nuisance, to cause the same to be filled up, cleansed or deepened or to cause the water to be removed therefrom or drained off or to take such other action therewith, as may be deemed necessary by the Panchayat ;
- (v) the owner or occupier of any land overgrown with vegetation, undergrowth, prickly-pear, or jungle which is in any manner injurious to health or dangerous to the public or offensive to the neighbourhood or an impediment to efficient ventilation, to cause it to be cleared of the vegetation, undergrowth, prickly-pear or jungle.

(2) If any work required by a notice under sub-section (1) is not executed within the period specified in the notice the Panchayat may itself cause such work to be carried out and may recover the cost of such work or part thereof from the owner or occupier referred to in sub-section (1) as if it were a tax imposed under section 39.

Power for providing adequate water supply.

34. (1) For providing the area under its control or any part thereof with a supply of water, pure and sufficient for public and private purposes, the Panchayat may—

- (a) construct, repair and maintain tanks or wells and clear out streams or water courses ;
- (b) purchase or acquire by lease or gift any tank, well, stream or water-course, or any right to take or convey water within or without the area under its control ;

- (c) with the consent of the owner thereof, utilize, cleanse or repair any tank, well, stream or water-course or provide facilities for obtaining water therefrom;
- (d) contract with any person for a supply of water; or
- (e) do any other acts necessary for carrying out the purposes of this section.

(2) The Panchayat may, by order published at such places as it may think fit, set apart for the supply of water to the public for drinking or culinary purposes, any tank, well, stream, or water-course in respect of which action has been taken under clause (a) or (b) or (c) of sub-section (1), subject to any rights which the owner referred to in clause (c) of the sub-section (1) may retain with the consent of the Panchayat.

(3) The Panchayat may, by order published at such places as it may think fit, prohibit—

- (a) bathing, washing of clothes and animals, or other acts calculated to pollute the water of any tank, well, stream or water-course set apart for drinking or culinary purposes under sub-section (2); and
- (b) during epidemics, the use of any source of water supply for drinking or culinary purposes or for the washing of clothes.

35. Subject to such rules as the Government may make in this behalf, a Panchayat may make bye-laws for conserving and preventing injury to sources and means of water supply, and appliances for the distribution of water, whether within or without the limits of the Panchayat; and for regulating all matters connected with the supply and use of water and the turning on; or turning off, and preventing the waste of, water and the construction, maintenance and control of Panchayat water works and pipes and fittings in connection therewith, whether the property of the Panchayat or not. Power of Government to make rules regarding provision of water supply.

36. Any member, officer or servant of a Panchayat may enter into or upon any building or land, with or without assistants or workmen, in order to make any inspection or execute any work for any of the purposes of this Act: Power of entry.

Provided that—

- (a) no such entry shall be made between sunset and sunrise ;
- (b) unless the entry be with the consent of its occupier, no dwelling house shall be so entered without giving reasonable previous notice signed by the Chairman or by a person duly authorised by him in this behalf of the intention to make such entry ; and
- (c) due regard shall be had in making such entry to the social and religious usages of the occupants of the premises entered.

CHAPTER V

PANCHAYAT FUND AND RECOVERY OF DUES

Panchayat
Fund.

37. (1) All sums realised as taxes, fees, cesses, fines or costs under this Act, all fines and surplus proceeds of sale of cattle under the Cattle Trespass Act, 1871, all sums of revenue assigned to the Panchayat under this Act or by any general or special order of Government and all other receipts of the Panchayat including any donations from a private person or body of persons, and any contribution or grant from a District Board or the Government and loans raised by the Panchayat shall be paid into a fund to be called the "Panchayat Fund".

(2) The Panchayat Fund shall be administered by the Panchayat and the expenses incurred by the Panchayat in carrying out the purposes of this Act shall be paid out of the Panchayat Fund :

Provided that all sums made over to or realised by a Panchayat for any specific purpose shall be applied solely for that purpose.

(3) The Panchayat Fund shall be lodged in the Government Savings Bank or in a Co-operative Society or Bank approved by the Deputy Commissioner or in such manner as may be prescribed. A Panchayat may from time to time with the approval of the Deputy Commissioner invest any portion of its surplus funds in Government securities or other securities approved by the Government.

Government
to assign
part of land
revenue to
Panchayat.

38. (1) The Government shall assign to a Panchayat an amount equal to twelve and a half per cent of the land revenue collected in the area of the Panchayat.

(2) The amount assigned to each Panchayat under sub-section (1) may be credited to the Panchayat Fund once every year or in such other manner as may be prescribed.

Tax on
houses, shops,
etc.

39. (1) The Panchayat shall determine the rates of tax on all houses, shops or places of trade or business, vacant sites, *hittals* and carts kept in the village or villages within its jurisdiction not exceeding the maxima specified in Schedule I.

(2) When the rates of tax leviable are determined by the Panchayat under sub-section (1) the Secretary of the Panchayat shall prepare an assessment list in accordance with rules and bye-laws made in this behalf and the list so prepared shall be subject to the approval of the Panchayat.

The assessment shall be recovered by the Secretary in such manner as the Panchayat may determine by bye-laws made in this behalf.

(3) It shall be competent to the Panchayat to make provision for exemptions in favour of individuals or a class of individuals subject to such rules as may be prescribed in this behalf.

40. (1) A Panchayat may levy a village improvement Village tax, commutable into a contribution of labour, subject improvement tax. to the rules prescribed in this behalf.

(2) Such tax shall be levied at rates not less than Rs. 6 or more than Rs. 10 per family per annum.

41. A Panchayat may, subject to such bye-laws as Profession may be made by it in this behalf, and with the sanction of tax. the Commissioner, levy profession tax on all or any of the professions set out in Schedule II and at rates not exceeding the maxima prescribed in the said Schedule.

42. (1) A Panchayat may, subject to bye-laws made by Tax on fairs, it in this behalf, levy a tax on shandies, fairs and festivals at etc. rates not more than the rates specified in Schedule III :

Provided that the levy of such tax is agreed to by not less than two-thirds of the total number of members of a Panchayat.

(2) Any tax specified in sub-section (1) may be cancelled with the previous sanction of the Government.

(3) The Secretary shall assess and take action to recover any such tax as is levied under sub-section (1).

43. (1) If, at any time, in the opinion of the Deputy Increase o Commissioner, the regular income of the Panchayat falls income. below what is necessary for the proper discharge of the duties specified in section 23, the Deputy Commissioner may call upon the Panchayat to take steps within six months to increase its income to such an amount as may be considered necessary. If the Panchayat fails to take adequate steps to increase its income to the required amount, the Deputy Commissioner may require it to increase the rate of taxes imposed under section 39.

(2) An appeal shall lie to the Commissioner from an order of the Deputy Commissioner under this section.

44. Objections to any assessment and the liability of any Objections in person to be assessed under this Act shall be preferred and respect of decided in accordance with rules made under this Act. liability to assessment.

45. (1) The amount of taxes, fees or other dues shall be Collection of paid in such manner as may be prescribed, and in case of taxes, fees, default of such payment, shall be recoverable by the Amildar etc. as an arrear of land revenue.

(2) Nothing herein contained shall preclude the institution by the Secretary of a suit for any amount due under this Act.

(3) No proceedings shall be taken under sub-section (1) more than six years after the amount became due.

46. Subject to such rules as may be prescribed and with Power of the previous sanction of the Government, a Panchayat may Panchayat raise loans for carrying out works of permanent utility within to raise the area under its control. The amounts so borrowed shall loans. be a first charge upon its revenues.

Annual
budget of
Panchayats.

47. (1) Subject to such rules as may be prescribed in this behalf by the Government, every Panchayat shall prepare a budget of estimated receipts and expenditure for the next official year and forward it to the Commissioner or to such other officer as may be specified in the rules.

(2) Every such budget shall be scrutinised and passed by the Commissioner or such other officer to whom it has been forwarded :

Provided that the budget shall be presumed to have been passed if it is not returned by the Commissioner or such other officer within two months of the receipt thereof by the Commissioner.

(3) No expenditure which is not provided for in the budget as passed by the Commissioner or such other officer shall be incurred without the previous sanction of the Commissioner.

The scrutiny of such budget shall be limited to ascertain if—

- (i) the obligatory duties specified in this Act have been provided for ;
- (ii) the financial commitments of the previous years have been provided for ;
- (iii) contributions due to Government and to other local bodies have been provided for ;
- (iv) expenditure proposed is well within the normal revenue ; and
- (v) adequate closing balance has been provided for as prescribed.

Annual
accounts
and audit.

48. Accounts of all the receipts and expenditure of every Panchayat shall be maintained for every official year in such form as the Government may prescribe and shall be examined and audited by such officer as may be appointed by the Government in this behalf.

¹Part III—District Board

* * * *

Other duties of District Boards.

92. Every District Board shall render such technical assistance as may be available with it and as may be required by the village Panchayats within the District free of cost and it shall be lawful for a District Board to supplement works of development undertaken by a Panchayat within the district by taking up schemes which are beyond the powers of the Panchayats to execute.

¹ Sections 49 to 91, 93 to 96 and 98 to 136 of Chapters VI to X of Part III have been omitted as they relate to the Constitution, Functions, Finance, etc., of the District Boards.

* * * *

97.(1) No market and no jattras, fairs, agricultural and cattle shows and exhibitions except those which are managed by Muzrai, and other officers authorised by the Government in this behalf shall be newly established in any area under the authority of a district board or a Panchayat without the previous sanction of the Government which, in respect of an application by a Panchayat, will be accorded after previous consultation with the District Board concerned. Establishment of markets, etc.

(2) The grant of permission under sub-section (1) shall be subject to such conditions and restrictions as the Government may lay down generally or specially in the case of any particular institution or class of institutions.

(3) Whoever contravenes the provisions of this section shall, on conviction by a magistrate, be punished with fine which may extend to five hundred rupees.

(4) If any question arises whether any place is a market or not, the Panchayat or the District Board concerned shall make a reference to the Government and the decision of the Government thereon shall be final.

* * * *

Part IV—General

CHAPTER XI

CONTROL

137. (1) The Commissioner for Local Self-Government appointed by the Government shall be the chief controlling authority in respect of all matters relating to the administration of Village Panchayats and District Boards. Commissioner for Local Self-Government.

(2) The Government may, by notification in the *Mysore Gazette*, delegate to the Commissioner all or any of their powers under this Act except the power to make rules.

138. The Deputy Commissioner or such other officer as may be prescribed, shall submit annually to the Commissioner, a consolidated report on the working of the Panchayats of the district in such form as the Government may, from time to time, prescribe, and the Commissioner shall review the report and submit a copy of his review for the information of the Government. Annual report of working of Panchayats.

139. The Deputy Commissioner, or such other officer as may be prescribed, may, by order in writing, require any Panchayat in his district to perform any duty, whether obligatory, discretionary or delegated under this Act, annul any proceedings which he considers to be not in conformity with law and may do all things necessary to secure such Powers of Deputy Commissioner over Panchayats.

performance or conformity : provided that when the duty required to be performed is discretionary or delegated, an appeal shall lie to the Commissioner from the order of the Deputy Commissioner.

Deputy Commissioner to have access to books, etc., of Panchayats.

140. (1) The Deputy Commissioner, or such other officer as may be prescribed, shall have access to all books, proceedings and records of every Panchayat within their respective jurisdictions.

(2) Any officer authorised by the Deputy Commissioner in this behalf, shall have power to inspect and examine the books, proceedings and records of a Panchayat or Panchayats in the district.

Deputy Commissioner may inspect, call for reports, etc. from Panchayats.

141. The Deputy Commissioner, or such other officer as may be prescribed, shall, in respect of Panchayats within his jurisdiction, have power at all times—

- (a) to enter on and inspect or cause to be entered on and inspected, any immovable property occupied by or any work in progress under the orders of, or any institution controlled by, a Panchayat ;
- (b) to call for and inspect, for the purposes of the Act any document which may be in the possession, or under the control, of a Panchayat; and
- (c) to require the Panchayat to furnish such statements, accounts and reports as he thinks fit.

Powers of Deputy Commissioner to provide for performance of obligatory functions of Panchayats.

142. (1) When the Deputy Commissioner, or any officer prescribed in this behalf, is informed on complaint made or otherwise, that a Panchayat in the district has made default in performing any duty under section 23 and is satisfied after due enquiry that the Panchayat has been guilty of the alleged default, he may, by an order in writing, fix a period for the performance of that duty.

(2) If that duty is not performed within the period so fixed the Deputy Commissioner or such other officer may appoint some person to perform it, and may direct that the expense of performing it with a reasonable remuneration to the person appointed to perform it, shall be forthwith paid by the Panchayat.

(3) If the expense and the remuneration are not so paid, the Deputy Commissioner or such other officer may make an order directing the person having the custody of the Panchayat Fund to pay the expense and remuneration and such person shall be bound to comply with such order.

(4) A copy of the order passed under sub-sections (1), (2) and (3) shall, if passed by an officer other than the Deputy Commissioner, be sent to the Deputy Commissioner as soon as it is passed, and if passed by the Deputy Commissioner to the Commissioner as soon as it is passed, and it shall be within the discretion of the Deputy Commissioner or the Commissioner, as the case may be, to rescind or to modify the order.

143. (1) If, in the opinion of the Deputy Commissioner or such other officer as may be prescribed in this behalf, the execution of any order or resolution of a Panchayat in the district or the doing of any act which is about to be done, or is being done, in pursuance of or under cover of this Act, is likely to cause injury or annoyance to the public or to any class or body of persons, or to lead to a breach of the peace, he may, by order in writing, suspend the execution or prohibit the doing thereof.

Power of Deputy Commissioner to suspend execution of or prohibit certain act by Panchayat.

(2) When an officer other than the Deputy Commissioner makes any order under this section, he shall forthwith forward a copy of the order to the Deputy Commissioner together with a statement of reasons for making it and when the Deputy Commissioner makes any such order, he shall forward a copy of the order and the statement to the Commissioner and it shall be in the discretion of the Deputy Commissioner or the Commissioner, as the case may be, to rescind the order or to direct that it shall continue in force with or without modification permanently or for such period as he thinks fit.

144. (1) In cases of emergency, the Deputy Commissioner or any officer prescribed in this behalf, may provide for the execution of any work, or the doing of any act, which a Panchayat in the district is empowered to execute or do, and the immediate execution or doing of which is, in his opinion, necessary for the safety of the public. He shall forthwith communicate his order with the reasons therefor to the Panchayat and may direct that the expense of executing the work or doing the act, with a reasonable remuneration to the person appointed to execute or to do it, shall be forthwith paid by the Panchayat.

Powers of Deputy Commissioner over Panchayats in cases of emergency.

(2) If the expense and the remuneration are not so paid, the Deputy Commissioner or such other officer may make an order directing the person having the custody of the Panchayat Fund to pay the expense and remuneration.

(3) Where the Deputy Commissioner uses powers given under this section, he shall report forthwith to the Commissioner every such case and where any officer other than the Deputy Commissioner does so, he shall forthwith report to the Deputy Commissioner.

145. (1) If a Panchayat is not competent to perform, or persistently makes default in the performance of the duties imposed on it by or under this Act or by or under any law or exceeds or abuses its powers, the Deputy Commissioner of the District may, after giving such Panchayat an opportunity of being heard, declare, by an order published in the *Mysore Gazette*, with the reasons for making it, the Panchayat to be incompetent or in default or to have exceeded or abused its powers, as the case may be, and supersede it for a period to be specified in the order.

Supersession of Panchayats.

(2) When a Panchayat is so superseded, the following consequences shall ensue—

(a) all members of the Panchayat shall, as from the date of the order, vacate their office as such members;

- (b) all powers and duties of the Panchayat may, during the period of supersession, be exercised and performed by such person or persons as the Deputy Commissioner, from time to time, appoint in that behalf;
- (c) where a Panchayat is superseded, all property vested in it shall, during the period of supersession, vest in the Deputy Commissioner subject to all rights over, and all debts, liabilities and obligations, if any, affecting that property.

(3) On the expiration of the period of supersession specified in the order, the Panchayat shall be re-established by election and the persons who vacated their office under clause (a) shall not be deemed disqualified for election.

(4) If, after enquiry made, the Deputy Commissioner so directs, the period of supersession with all the consequences aforesaid shall, from time to time, be continued by an order published as aforesaid until such date as may be fixed by the Deputy Commissioner for the re-establishment of the Panchayat :

Provided that such supersession shall not continue for more than one year at a time.

(5) An appeal shall lie to the Commissioner from an order of the Deputy Commissioner under this section.

(6) A further appeal shall lie to the Government from an order of the Commissioner passed under this section.

Appeals from
orders of or
relating to
Panchayats.

146. (1) Save as otherwise provided for in this Act, an appeal shall lie from an order of the Panchayat to the Deputy Commissioner of the district or to such other officer as may be prescribed and shall be preferred within thirty days of the date of publication or communication of the order. The decision of the Deputy Commissioner shall be final.

(2) Appeals to the Commissioner or the Government when expressly allowed under this Act in respect of Panchayats shall be preferred within ninety days of the date of publication or communication of the order from which the appeal is made.

Disputes
between
Panchayats.

147. (1) If a dispute arises between two or more Panchayats in the same taluk, the matter shall be referred to the Deputy Commissioner or such other officer as may be prescribed in this behalf for decision.

(2) If a dispute arises between two or more Panchayats which are within the same district but which are in different taluks, the matter shall be referred to the Deputy Commissioner and the decision of the Deputy Commissioner thereon shall be final.

(3) If a dispute arises between two or more Panchayats in different districts, the matter shall be referred to the Commissioner for decision and the decision of the Commissioner thereon shall be final.

148. (1) If a dispute arises between a municipal council not being a City Municipal Council and a Panchayat within the same district, the matter shall be referred to the Deputy Commissioner, and the decision of the Deputy Commissioner thereon shall be final. Disputes between a municipal council and a Panchayat.

(2) If a dispute arises between a City Municipal Council and a Panchayat or between a Municipal Council and a Panchayat in different districts (or between a District Board and a Panchayat) the matter shall be referred to the Government, and the decision of the Government thereon shall be final.

149. Where a Panchayat has been established under this Act, for a village or villages under the control of a Town or Sanitary Board, constituted under any law for the time being in force, the powers that may be exercised by a Deputy Commissioner shall be exercised by such other person or persons as may be prescribed : Panchayats within town or sanitary board areas.

Provided that nothing in this Act, shall affect the powers that are exercised by a Town or Sanitary Board in respect of the control of epidemics in the area under its control.

150. (1) When any matter has been decided by the Commissioner on appeal under sub-section (2) of section 43, section 139 or sub-section (5) of section 145, or sub-section (4) of section 164 or on reference under sub-section (3) of section 147, the Government may, for the purpose of satisfying themselves as to the correctness, legality or propriety of his order, call for the connected records and may, in doing so, direct that pending the examination of the records, such order be held in abeyance. Power of Government to call for records in the case of appeals decided by Commissioner.

(2) On examining the records, the Government may reverse or modify the order of the Commissioner as they deem fit.

151. The Government may, by order in writing, amend any proceedings or resolutions of a District Board which they consider to be not in conformity with the provisions of this Act and the rules or regulations in force thereunder, and may do all things necessary to secure such conformity. Power of Government to amend proceedings of District Boards.

152. Subject to such rules as the Government may from time to time frame in this behalf, the Commissioner shall have power— Inspection of offices of District Boards.

(a) to inspect the office of any District Board;

(b) to call for records of any District Board,

either on his own motion or on the application of an aggrieved party and to submit the same with his opinion to the Government for such orders as they deem fit to pass, if he is satisfied that the order or proceeding of the District Board or its executive is contrary to law.

Deputy Commissioner's power of supervision.

153. (1) The Commissioner shall have power to supervise the proceedings of the District Boards and of the several committees of the District Boards and in the exercise of that power, may (among other things),—

- (a) enter on and inspect or cause to be entered on and inspected, any immovable property occupied by the District Board or a committee or any work in progress under its direction; and
- (b) call for and inspect for the purposes of this Act any document which may be in the possession under the control of a District Board or a committee; and
- (c) require the District Board or a committee to furnish such statements, accounts and reports as he thinks fit.

(2) Where a Joint Committee is appointed by the District Board of two or more districts, the Commissioner may exercise a like power in respect of the proceedings of that committee.

Powers to suspend execution of orders, etc.

154. (1) If, in the opinion of the Commissioner, the execution of any order or resolution of a District Board or a committee, or the doing of any act which is about to be done, or is being done, in pursuance of or under cover of this Act, is likely to cause injury or annoyance to the public or to any class or body of persons or to lead to a breach of the peace or is unlawful, he may, by order in writing, suspend or prohibit the execution thereof.

(2) When the Commissioner makes any order under this section, he shall forthwith forward to the Government a copy of the order, with a statement of the reasons for making it, and it shall be in the discretion of the Government, after affording the Board reasonable opportunities for stating its case, to rescind the order, or to direct that it continues in force with or without modification, permanently or for such period as they think fit.

Extraordinary powers of Deputy Commissioner in cases of emergency.

155. (1) In cases of emergency, the Deputy Commissioner after intimation to a District Board to execute any work or do any act which a District Board is empowered to execute or do under sub-section (1) of section 86 and the immediate execution or doing of which is in his opinion necessary for the safety of the public, within a time to be specified by him and on failure of the District Board to execute such work or do such act, may provide for the execution of such work or the doing of such act and direct that the expense of executing the work or doing the act with a reasonable remuneration to the person appointed to execute, or to do it, shall be paid by the District Board.

(2) If the expense and the remuneration are not so paid, the Deputy Commissioner may make an order directing the person having the custody of the District Fund to pay the expense and remuneration and such person shall be bound to comply with such order.

(3) the provisions of sub-section (2) of section 154 shall apply, so far as may be, to any order made under this section in the same manner and to the same extent as if it were an order of the Commissioner.

156. (1) When the Government is informed on complaint made or otherwise, that a District Board has made default in performing any duty imposed on it by or under this Act or by or under any enactment for the time being in force, the Government, if satisfied after due enquiry, that the District Board has been guilty of the alleged default, may, by an order in writing, fix a period for the performance of that duty.

Power to provide for performance of duties in default of District Board.

(2) If that duty is not performed within the period so fixed, the Government may appoint some person to perform it and may direct that the expense of performing it, with a reasonable remuneration to the person appointed to perform it, shall be paid by the District Board.

(3) If the expense and the remuneration are not so paid, the Government may make an order directing the person having the custody of the District Fund to pay the expense and remuneration and such person shall be bound to comply with such order.

157. (1) If a District Board is not competent to perform or persistently makes default in the performance of the duties imposed on it by or under this Act, or otherwise by law, or exceeds or abuses its powers, the Government may, by an order published, with the reasons for making it, in the *Mysore Gazette*, declare the District Board to be incompetent, or in default, or to have exceeded or abused its powers, as the case may be, and supersede it for a period to be specified in the order.

Supersession of District Boards.

(2) When a District Board is so superseded, the following consequences shall ensue :—

Consequences of supersession of District Boards.

- (a) all members of the District Board shall, as from the date of the order, vacate their office as such members;
- (b) all powers and duties of the District Board may, during the period of supersession, be exercised and performed by such person or persons as the Government, from time to time, appoint in that behalf;
- (c) all property vested in the District Board shall, during the period of supersession, vest in the Government subject to all rights over and all debts, liabilities and obligations, if any, affecting that property.

(3) On the expiration of the period of supersession specified in the order, the District Board shall be re-established by election, and the persons who vacated their offices under clause (a) shall not be deemed disqualified for election :

Provided that such supersession shall not continue for more than one year at a time.

Disputes
between
District
Boards.

158. (1) If any dispute, for the decision of which this Act does not otherwise provide, arises between two or more District Boards, or between a District Board and one or more municipal councils, the matter shall be referred to the Government whose decision shall be final.

(2) No suit shall be entertained by a civil court in respect of any dispute referred to in sub-section (1).

Powers of
Government,
Commissioner,
and
Deputy Com-
missioner over
subordinates.

159. In respect of officers employed by a District Board the Government and the Commissioner, and in respect of officers employed by a Village Panchayat, the Government, the Commissioner and the Deputy Commissioner concerned shall exercise the same authority and control which they or he exercises over their or his subordinates of corresponding status in the general and revenue administration.

Power under
special
circumstan-
ces to exempt
the District
Boards from
the operation
of the Act.

160. (1) If the circumstances of any district or part of a district or any village or part of a village are in the opinion of the Government such that all or any of the provisions of this Act are unsuited thereto, the State Government may, by notification in the *Mysore Gazette*, exempt the district or part of the district or village or part of the village from the operation of these provisions and thereupon these provisions shall not apply to the exempted district, village or part of the district or village until again applied thereto by a subsequent notification of the Government.

Power to
make rules
in relation to
notification
under sub-
section (1).

(2) While any notification under the former part of sub-section (1) of this section is in force, the Government may make rules to provide for any matter dealt with by the provisions of this Act to which the notification applies. Such rules, when published in the *Mysore Gazette*, shall have the force of law.

Penalty for
member,
officer or
servant of a
District
Board having
an interest in
any contract,
etc., with
that Board.

161. If any member of a District Board or any officer or servant maintained by or employed under a District Board has directly or indirectly any share or interest in any work done by order of the Board of which he is a member or by which he is maintained or under which he is employed or in any contract with or under such Board, he shall be liable on conviction, before a magistrate, to a fine, not exceeding five hundred rupees :

Provided that no person shall be convicted under this section by reason only of such person—

- (a) having a share in any Joint-Stock Company or a share or interest in any literary association registered under the Societies Registration Act, 1904, or in any society registered under the Mysore Co-operative Societies Act, 1948, which shall contract with or be employed by or on behalf of the District Board, or
- (b) having a share or interest in any newspaper in which any advertisement relating to the affairs of the District Board may be inserted, or
- (c) holding a debenture or being otherwise concerned in any loan raised by or on behalf of the District Board.

162. (1) No action shall be brought against any District Board, or any of its officers, or any person acting under its direction, for anything done or purporting to be done under this Act, until the expiration of two months next after notice in writing, shall have been delivered or left at the office of the Board or at the place of abode of such person; such notice shall state the cause of action, the relief sought, the amount of compensation, if any, claimed and the name and the place of abode of the intending plaintiff.

Restrictions
with respect
to actions
against
District
Boards.

And every such action shall, unless it is an action for the recovery of immovable property or for a declaration of title thereto, be commenced within eight months next after the accrual of the cause of action and not afterwards.

(2) Nothing in this section shall be deemed to apply to any suit instituted under section 54 of the Specific Relief Act, 1877.

(3) (a) No civil court shall entertain a suit objecting to an assessment, demand or charge made or imposed under this Act, or for the recovery of any sum of money collected under the authority of this Act, or for damages on account of any assessment or collection of money under the said authority if the provisions of this Act have been in substance and effect complied with.

(b) No suit or other legal proceedings shall lie against any member, officer, servant or agent of a District Board acting under its direction, in respect of anything done lawfully and in good faith under this Act or any rule made thereunder.

163. (1) (a) No suit shall be brought against any Panchayat or any member, officer, servant, or agent thereof acting under its direction, in respect of any act purporting to be done in its or his official capacity, until the expiration of two months next after notice in writing has been, in the case of a panchayat, left or delivered at its office and in the case of a member, officer or servant, delivered to him or left at his office or place of residence. The notice shall state the cause of action, the name and place of residence of the intending plaintiff, and the relief which he claims. The plaint shall contain a statement that such notice has been so delivered or left.

Institution of
legal proceedings
against
panchayat
member,
officer, ser-
vant or agent
and bar of
certain suits.

(b) Every such action shall be dismissed unless it is instituted within eight months after the accrual of the alleged cause of action.

(c) When the suit is against a member, officer, servant or agent of a Panchayat, the Deputy Commissioner shall determine whether the defence of the suit should be undertaken by the Panchayat and paid for out of the Panchayat Fund.

(2) (a) No civil court shall entertain a suit objecting to an assessment, demand or charge made or imposed under this Act, or for the recovery of any sum of money collected under the authority of this Act, or for damages on account of

any assessment or collection of money under the said authority, if the provisions of this Act have been in substance and effect complied with.

(b) No suit or other legal proceedings shall lie against any member, officer, servant or agent of a Panchayat acting under its direction, in respect of anything done lawfully and in good faith under this Act or any rule made thereunder.

(3) Nothing in this section shall be deemed to apply to any suit under section 54 of the Specific Relief Act.

Deputy commissioner's right to requisition records, etc.

164. (1) Every person in possession of moneys, accounts, records or other property appertaining to a Panchayat shall, on the requisition in writing of the Deputy Commissioner for this purpose, forthwith hand over such moneys or deliver up such accounts, records or other property to the Chairman of the Panchayat or other person authorised in the requisition to receive the same.

(2) The Deputy Commissioner of the District may also take steps to recover any money due by such person in the same manner and subject to the same rules as are laid down in the Mysore Land Revenue Code, 1888, for the recovery of arrears of land revenue from defaulters; and for the purpose of recovering the accounts, records or other property appertaining to the Panchayat, may issue a search warrant and exercise all such powers with respect thereto as may lawfully be exercised by a magistrate under the provisions of Chapter VII of the Code of Criminal Procedure.

(3) Every person knowing where any moneys, accounts, records or other property appertaining to a Panchayat are concealed, shall be bound to give information of the same to the Deputy Commissioner.

(4) An appeal shall lie to the Commissioner from the order of the Deputy Commissioner under this section.

Acquisition of land.

165. Where any land is required for the purpose of this Act, the Government may, at the request of a District Board or Panchayat, and on the recommendation of the Deputy Commissioner, proceed to acquire it under the provisions of the Mysore Land Acquisition Act, 1894; and on payment by the District Board or Panchayat of the compensation awarded under that Act, and the charges incurred by the Government in connection with the proceedings, the land shall vest in the District Board or Panchayat, as the case may be.

Obstructions and encroachments upon public streets and open spaces.

166. (1) Whoever shall have built or set up, or shall build or set up, any wall or any fence, rail, post, stall, verandah, platform, plinth, step, or any projecting structure or thing, or other encroachment or obstruction, in any public street, or shall deposit or cause to be placed or deposited any box, bale, package or merchandise, or any other thing in such street, vested in a District Board, or in, or over, or upon any open drain, gutter, sewer or aqueduct in such street, shall, on conviction by a magistrate, be punished with fine which may extend to fifty rupees.

(2) The District Board shall have power to remove any such obstruction or encroachment, and shall have the like power to remove unauthorised obstruction or encroachment of the like nature in any open space vested in or under the control of the District Board, and the expense of such removal shall be paid by the person who has caused the said obstruction or encroachment, and shall be recoverable in the manner provided in Chapter X.

(3) Nothing contained in this section shall prevent the District Board allowing any temporary occupation of, or erections in, any public street on occasions of festivals and ceremonies, and in such manner, as not to inconvenience the public or any individual.

(4) Nothing contained in this section shall apply to any projection duly authorised by the District Board or in any case where permission has been given under sub-section (3) of this section.

CHAPTER XII

MISCELLANEOUS

167. Every member of a Panchayat or District Board and every officer and servant, maintained by or employed under a Panchayat or District Board, shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

Application of term "public servant" to members of Panchayats and District Boards and their officers and servants.

168. (1) Whoever, in any area within the jurisdiction of a Panchayat—

Punishment for offences under this Act and powers to compound.

(a) erects, alters, adds to or reconstructs a building without the written permission required by section 29 or in contravention of any of the conditions imposed by it ;

(b) uses any place for an offensive or dangerous trade without a licence required by section 31 or contrary to the conditions imposed therein ; or

(c) disobeys an order issued under sub-section (3) of section 34 ; or

(d) commits any other offence under this Act or such rules thereunder as are notified by the Government as being punishable under this section ;

shall, on conviction before a magistrate, be punished with fine which may extend to fifty rupees, and in the case of a continuing offence with a further fine which may extend to five rupees for every day after conviction during which he continues so to offend.

(2) A Panchayat may—

- (a) accept by way of compensation a sum of money not exceeding fifty rupees from any person who, in the opinion of the Panchayat, has committed any of the aforesaid offences, and on such compromise, no proceeding shall be taken against such person in respect of such offence ;
- (b) compound for a similar sum any of the aforesaid offences or any offences under this Act, which may, by rules made by the Government, be declared compoundable, or withdraw from the prosecution instituted under this Act or any rule thereunder.

(3) All fines imposed by a magistrate under this section or the rules or bye-laws in respect of Panchayats made under this Act shall be recovered and credited to the Panchayat Fund.

**Panchayat
may prose-
cute**

169. A Panchayat may direct any prosecution for any public nuisance whatever, and may order proceedings to be taken for the recovery of any penalties, and for the punishment of any person offending against the provisions of this Act, or of any rule or bye-law made thereunder relating to Panchayats and may order the expenses of such prosecutions or other proceedings to be paid out of the Panchayat Fund :

Provided that no prosecution for an offence under this Act shall be instituted more than six months after the commission of such offence.

**Form of
notices.**

170. All notices given or issued under the provisions of this Act shall be in writing.

**Method of
serving
document.**

171. (1) When any notice or other document is required by this Act or by any rule or order made under it to be served on, or sent to, any person, the service or sending thereof may be effected—

- (a) by giving or tendering the said document to such person; or
- (b) if such person is not found, by leaving such document at his last known place of residence or business, or by giving or tendering the same to some adult member or servant of his family; or
- (c) if such person does not reside in the village and his address elsewhere is known to the Secretary of a Panchayat or the Chief Executive Officer of a District Board, by sending the same to him by post registered; or
- (d) if none of the means aforesaid be available, by fixing the same in some conspicuous part of his last place of residence or business.

(2) In the case of joint-owners and occupiers, it shall be sufficient to serve the notice or other document on, or send it to any one of such owners or occupiers.

(3) Whenever in any bill, notice or other document served or sent under this Act or the rules thereunder, a period is fixed within which any tax or other sum is to be paid or any work executed, or anything provided, such period shall, in the absence of any distinct provision to the contrary in this Act or the rules thereunder, be calculated from the date of such service or sending.

172. (1) The Government may make rules or orders to carry out all or any of the purposes of this Act and prescribe forms for any proceeding for which they consider that a form should be provided. Powers to make rules.

(2) In particular and without prejudice to the generality of the foregoing power, they shall have power to make rules or orders :-

A. For Panchayats—

- (a) with reference to all matters expressly required or allowed by this Act to be prescribed;
- (b) for giving intimation of vacancies in the offices of Chairman and members of a Panchayat for fixing time within which elections shall be held for filling such vacancies, and generally for regulating all elections under this Act and determining the authority who shall decide disputes relating to such elections;
- (c) regulating the establishment of the Panchayat and their powers to acquire, hold and transfer property and to enter into contracts; and regarding
- (d) the powers that may be exercised by the Chairman;
- (e) the grant of leave to the Chairman and Secretary and for the conduct of business during their absence;
- (f) the levy of taxes, cesses, rates, fees or other dues under this Act, their assessment and recovery, including the procedure to be adopted during distraint, sale, etc.;
- (g) the accounts to be maintained by Panchayats, the audit and publication of such accounts, and the arrangements to be made for the lodging and custody of the Village Fund;
- (h) the returns, statements and reports to be submitted by Panchayats;
- (i) the preparation and sanction of the estimates of receipts and expenditure of Panchayats;
- (j) the manner in which notifications and orders under this Act shall be published;
- (k) instructions for the guidance of the controlling authorities in exercising the powers delegated to them;
- (l) the powers and functions, qualifications, manner of recruitment and training of Secretaries of Panchayats;
- (m) the class of magistrates by whom offences under this Act or the rules thereunder shall be tried;

- (n) the settlement of differences or disputes between any two Panchayats or between a Panchayat or any other local authority in regard to any matters arising for decision under this Act.

B. For District Boards—

- (a) with reference to all matters expressly required or allowed by this Act to be prescribed ;
- (b) with reference to all matters relating to elections ; and regarding
- (c) the remuneration and allowances, if any, of members, Presidents and Vice-Presidents, the conditions under which and the rates at which payment of travelling expenses shall be made ;
- (d) the submission of resolutions on questions connected with the administration of the district ;
- (e) the intermediate offices, if any, through which correspondence between District Boards and the Government or Government officers shall pass ;
- (f) the conditions on which property may be acquired or transferred by District Boards ;
- (g) the mode of payment from the District Fund and the authority under which the District Fund shall be expended ;
- (h) the conditions on which grants-in-aid shall be paid from the District Fund ;
- (i) the raising of loans by District Boards and the grant of loans for the encouragement of local arts and industries ;
- (j) the levy of tolls, fees and cesses, remissions and exemptions to be granted and the writing off of irrecoverable arrears ;
- (k) the preparation of plans and estimates for works which are to be partly or wholly constructed at the expense of District Boards and the power of the District Boards or the Government officers to accord technical or administrative sanction to estimates ;
- (l) the conditions under which rate-payers may appear before the Government auditor, inspect books and vouchers and take exception to items entered in the accounts or omitted therefrom ;
- (m) the estimates of receipts and expenditure, returns, statements and reports to be submitted by District Boards ;
- (n) the mode in which the officers of the Government shall advise and assist District Boards in carrying out the purposes of this Act ;
- (o) the recruitment of officers and servants and their qualifications and with regard to control, transfer, punishment or dismissal of officers and servants of District Boards and with regard to the pay, leave, pension and other privileges of such employees ;

- (p) the guidance generally of District Boards, Committees, Joint Committees, and Government officers in all matters connected with the administration of this Act and not herein specifically provided for ; and
- (q) for prescribing punishment not exceeding five hundred rupees for breach of any rule and also a further fine which may extend to twenty-five rupees for every day on which such breach continues after the date of conviction or any subsequent date, as may be fixed by the magistrate.

(3) All rules made by the Government under this Act shall be published in the *Mysore Gazette* both in English and in Kannada.

173. (1) Subject to the provisions of this Act and any rules made in this behalf by the Government, a Panchayat may make bye-laws in respect of the following matters :—

Power of
Panchayat to
make bye-
laws.

- (a) regarding the time, place and the conduct of meetings of Panchayats ;
- (b) regarding the appointment of the officers and servants of the Panchayats and their salaries, allowances, pensions, gratuities, transfers and punishments (except Secretary) ;
- (c) regulating the conservancy of villages ;
- (d) providing for the protection and periodical examination of wells and water-supply in villages ;
- (e) defining and prohibiting public nuisances in villages ;
- (f) improving the sanitation of villages in other similar respects ; and
- (g) regulating the grant of permission to erect buildings and the conditions and terms that may be imposed ;
- (h) providing for the management of minor muzrai institutions ;
- (i) providing for the levy of profession tax and the rate or rates therefor ;
- (j) providing for management of shandies, fairs, and other forms of entertainment ;
- (k) regulating the use of water for drinking purposes and sources thereof ;
- (l) regulating the discharge of water from drains or from premises ;
- (m) preventing damage to public streets and Panchayat property ;
- (n) regulating drainage generally ;
- (o) regulating the use of public streets or other public places by shopkeepers ; and
- (p) regulating the use of tanks, ponds, gomal, playgrounds, bathing and other public places.

(2) Any bye-laws made by a Panchayat shall be subject to the previous approval of the Commissioner and shall take effect on publication in such manner as may be approved by the Government and any person who contravenes any

bye-laws made by a Panchayat shall, on conviction before a magistrate, be punished with fine not exceeding twenty rupees for each offence and in case of a continuing offence with a further fine which may extend to two rupees for every day on which such contravention is continued after the date of conviction, or any subsequent date as may be fixed by the magistrate.

Power of
District
Board to
make regula-
tions.

174. (1) A District Board may, from time to time, and subject to the provisions of this Act and to such rules as may be prescribed by the Government in this behalf and with the previous sanction of the Government, make regulations,—

- (a) for the general or special regulation, inspection, and control of *musafirhanas*, travellers' bungalows, rest houses, cart-stands, bus-stands, markets, slaughter-houses, hotels, bakeries, sweetmeat shops, all other places used for the sale of articles intended for human food or drink, all places used for animals which are for sale or hire or the produce of which is sold and all places used for the purposes specified in Schedule III and for regulating the conduct of business in any of the places aforesaid so as to secure cleanliness therein and the wholesomeness of the articles prepared, kept or sold or to minimise any injurious, offensive or dangerous effects arising or likely to arise therefrom ;
- (b) (i) for regulating all matters connected with sanitation ;
- (ii) for empowering the President or any person authorised by the Board to enter upon and to inspect any building or land and to require that it shall be kept in a sanitary condition ;
- (c) (i) for regulating the use of and the prevention of nuisances in regard to public water-supply, bathing and washing places, streams, channels, tanks and wells ;
- (ii) for requiring private sources of water-supply used by the public or any section of the public to be kept in good repair, improved or protected from pollution and for payment from the District Fund of a portion or the whole of the expenses incurred for the purposes ;
- (iii) for setting apart, with the consent of the owner in the case of private sources of water-supply, and of the Government in the case of those under the control of the Government, for a specified purpose, springs, tanks, wells, water sources and other places, and prohibiting their use for any other purpose or purposes ;
- (d) (i) for regulating prevention of the nuisances affecting the health, safety or convenience of the public ;
- (ii) for requiring that any pool, ditch, tank, pond, well, hole, or any waste or stagnant water, any channel or receptacle or foul water or other offensive or injurious matter which is likely to prove injurious

- to the health of the inhabitants or offensive to the neighbourhood be cleansed, filled up, drained off or removed or proper measures be taken to abate or remove the nuisance ;
- (e) (i) for regulating the prevention and spread of dangerous diseases ;
- (ii) for prohibiting the use of any source of water supply whether private or public, during epidemics ;
- (iii) providing for the inspection of persons, travelling by railways or otherwise and the segregation in a hospital or any other place set apart for the purpose, of persons suspected of being infected with any epidemic disease, or for such other measures as may be deemed necessary to prevent the outbreak of such disease or the spread thereof ;
- (iv) for empowering the President or any person duly appointed by the Board to enter into any building or premises in which any dangerous infectious disease is reported or suspected to exist, to require the owner or occupier of such building or premises to cleanse or disinfect the same or, where immediate action is necessary, to have such building or premises cleansed or disinfected and to recover the whole or any part of the expenses so incurred from such owner or occupier or to remit the same in deserving cases ;
- (v) for requiring that articles of clothing or bedding or other articles exposed to infection from dangerous infectious diseases be washed or disinfected at places notified by the District Board; and for destroying such articles as are likely to retain infection paying compensation for articles so destroyed ;
- (f) for regulating the use of public roads and the traffic thereon; for the temporary occupation or use of public roads and land vested in the Board; and for securing cleanliness, safety and order in respect of the same ;
- (g) for defining the conditions on or subject to which and the circumstances in which and the areas or localities in respect of which any licence or permission under this Act may be granted, refused, suspended or withdrawn and fixing the fees payable in respect of such permission and the rents, fees and other charges to be levied for the use of any of the places specified in clause (a) or other property belonging to the District Board ;
- (h) for providing for—
- (i) the establishment of public ferries and their management ;
- (ii) the issue of permission for plying ferry boats, the conditions on or subject to which such permission may be granted and the fees payable in respect of such permission ;

- (iii) the rates of fees that may be levied on passengers' vehicles, animals, goods or the loads that may be carried in any public ferry boat ;
- (iv) the safe, speedy, and convenient carriage and landing of passengers and property ;
- (v) the maintenance of ferry boats in good order and the employment of competent men for working them ;
- (vi) the inspection of the ferries and the ferry boats ; and
- (vii) otherwise for the due discharge of their duty by ferrymen and other persons employed at a public ferry ; and
- (viii) with respect to the conduct of business of District Boards and committees and to the interpellation of the President by the members and to the moving of resolutions at meetings of District Boards ;
- (ix) the delegation of powers of the President, the Vice-President or other officers or members or committees ;

(2) Any person who contravenes any regulation made under this section shall, on conviction before a magistrate, be punished with fine not exceeding fifty rupees for each offence and in the case of a continuing offence, with a further fine which may extend to ten rupees for every day on which such contravention is continued after the date of conviction, or any subsequent date as may be fixed by the magistrate.

Transitory provisions relating to existing Panchayats and District Boards.

175. (1) Until a District Board has been duly constituted under this Act; the body functioning as the District Board in that district immediately before the commencement of this Act, shall be deemed to be a District Board constituted under this Act and shall exercise the powers and perform the duties conferred on a District Board by or under the provisions of this Act.

(2) Until a Panchayat has been duly constituted under this Act, the body functioning as a Village Panchayat for a village or group of villages before the commencement of this Act, shall be deemed to be the Panchayat constituted under this Act for that village or those villages and shall exercise the powers and perform the duties conferred on a Panchayat by or under the provisions of this Act.

Saving of rules and bye-laws.

176. (1) Any rules made or orders passed by the Government and orders made by a Village Panchayat which were in force immediately before the commencement of this Act, shall, subject to the provisions of this Act, continue in force, as if made or passed under this Act.

(2) Any rules made or orders passed by the Government and any bye-laws or orders made by a District Board which were in force immediately before the commencement of this

Act, shall, subject to the provisions of this Act, continue in force, as if they were rules made, or orders passed by the Government or regulations made by a District Board under this Act.

177. The Mysore Village Panchayat Act, 1926, and the Mysore District Boards Act, 1926, are hereby repealed :

Repeal of
Mysore Acts
II and III of
1926.

Provided that—

- (a) the said repeal shall not affect the validity of anything done or the liability of any person to pay any sum due from him under the aforesaid Acts or rules or bye-laws or orders thereunder;
- (b) any appointment, notification, notice, order, scheme, licence, permission, rule, bye-law, form, tax, fee, cess or rate, made, issued, given or imposed, contracts entered into and suits and other proceedings instituted under the aforesaid Acts or rules, bye-laws or orders thereunder, shall, so far as may be, be deemed to have been made, issued, given, imposed, entered into and instituted under this Act;
- (c) the assets and liabilities of the aforesaid District Boards and Panchayats in such district, village or group of villages shall, subject to such conditions as may be imposed by the Government, devolve on the District Board or Panchayat constituted or continued under this Act; provided that any funds set apart for a specific purpose by the aforesaid Boards or Panchayats, shall not be diverted for any other purpose, without the consent of the District Board or Panchayat thus constituted or continued.

SCHEDULE I

MAXIMUM RATES OF TAX LEVIABLE ON HOUSES, SHOPS PLACES OF TRADE OR BUSINESS,
VACANT SITES AND *Hittals* AND CARTS

(See section 39)

A. House Tax

		Per annum.		
		Rs.	Rs.	Rs. A. P.
Class A—Buildings of the value not exceeding .	25	..		0 4 0
Class B—Buildings of the value exceeding .	25	But not exceeding		
		50		0 8 0
Class C do.	50	200		1 0 0
Class D do.	200	400		2 0 0
Class E do.	400	600		3 0 0
Class F do.	600	800		4 0 0
Class G do.	800	1,000		5 0 0
Class H do.	1,000	1,500		7 8 0
Class I do.	1,500	..		10 0 0

In respect of buildings, the value of which exceeds the above amount, the tax may be levied at the rate of four annas for every hundred rupees but not exceeding twenty-five rupees in any case.

B. Shop Tax

								Rs.	A.	P.	
1. Wholesale shop (Mandi)	1st Class	.	.	.	.	.	.	25	0	0	each
	2nd „	.	.	.	.	.	.	20	0	0	„
	3rd „	.	.	.	.	.	.	15	0	0	„
	4th „	.	.	.	.	.	.	10	0	0	„
2. Other shops	1st „	.	.	.	.	.	.	25	0	0	„
	2nd „	.	.	.	.	.	.	10	0	0	„
	3rd „	.	.	.	.	.	.	6	0	0	„
	4th „	.	.	.	.	.	.	4	0	0	„
	5th „	.	.	.	.	.	.	2	0	0	„
	6th „	.	.	.	.	.	.	1	0	0	„

C. Tax on Places of Trade or Business

								Rs.	A.	P.	
Other shops	1st Class	.	.	.	.	.	.	25	0	0	each
	2nd „	.	.	.	.	.	.	20	0	0	„
	3rd „	.	.	.	.	.	.	15	0	0	„
	4th „	.	.	.	.	.	.	10	0	0	„
	5th „	.	.	.	.	.	.	6	0	0	„
	6th „	.	.	.	.	.	.	4	0	0	„
	7th „	.	.	.	.	.	.	2	0	0	„
	8th „	.	.	.	.	.	.	1	0	0	„

D. Cart-Tax

								Rs.	A.	P.	
Single bullock-carts, <i>Waddara bandis</i>	.	.	.	.	.	.	.	1	0	0	each per annum.
Double bullock-carts . . . . .	.	.	.	.	.	.	.	2	0	0	„
Jutkas . . . . .	.	.	.	.	.	.	.	1	0	0	„

E. Tax on vacant sites and hittals

1. Village site land occupied by house and backyard attached thereto, when the area occupied exceeds ten guntas in the Maidan parts and 20 guntas in the Malnad.	For the area in excess of 10 guntas in the Maidan parts and 20 guntas in the Malnad.	} Annas four per one hundred square yards.
2. Other occupied land not being a Revenue Survey number left vacant within the village site, whether it is a building site or land ordinarily used for purposes of agriculture.	For the whole area	

SCHEDULE II

PROFESSIONS IN RESPECT OF WHICH PROFESSION TAX MAY BE LEVIED WITH THE MAXIMUM TAX LEVIABLE

(See Section 41)

CLASS I

Every person holding any office or appointment, public or private, or employed in any capacity whose pay, salary or pension amounts to one thousand rupees a month or upwards and every person falling under any of the following denominations whose income is estimated to amount to one thousand rupees a month or upwards :—

	Maximum per year.
	Rs.
1. Owners of cotton and ginning factories	} 25
2. Owners of pressing factories	
3. Owners of flour mills, rice hullers, oil mills and of buses and lorries	
4. Manufacturers of aerated or mineral waters	
5. Owners of hand-loom factories and factories driven by mechanical or electrical power	
6. Liquor shopkeepers, toddy shopkeepers	
7. Licensees of toddy booths, bhang, ganja, opium and other intoxicating drugs	
8. Hotel-keepers and boardings, eating, refreshment, house-keepers, licensees of mutton shops	
9. Hawkers and itinerant vendors	
10. Carpenters, blacksmiths, tailors, barbers, potters and contractors	
11. Practising hysicians and hakeem	

CLASS II

Rs.

Every person described in class I whose pay, salary or pension amounts, or whose income is estimated to amount to Rs. 500 a month or upwards	20
--	----

CLASS III

Every person described in class I whose pay, salary or pension amounts, or whose income is estimated to amount to Rs. 300 a month or upwards	10
--	----

CLASS IV

Every person described in class I whose pay, salary or pension amounts, or whose income is estimated to amount to two hundred rupees a month or upwards	6
---	---

CLASS V

Every person described in class I whose pay, salary or pension amounts, or whose income is estimated to amount to one hundred rupees a month or upwards	3
---	---

CLASS VI

Every person described in class I whose pay, salary or pension amounts, or whose income is estimated to amount to rupees fifty a month or upwards	2
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CLASS VII

Every person described in class I whose pay, salary or pension amounts, or whose income is estimated to amount to rupees thirty a month or upwards	1
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SCHEDULE III

(See section 42)

MAXIMUM RATES OF TAXES ON SHANDIES, FAIRS AND FESTIVALS

PART I

FEES ON CATTLE

	Rs.	A.	P.
(1) On every cattle-head brought for the cattle show (except in the case of young calves)	0	8	0
(2) On every head of draught bullocks passing into the precincts of the cattle show	0	8	0

PART II

TAX ON SHOP SITES

The area around the temple in respect of which the fair or festival is held may be divided into suitable blocks, based on the proximity thereof to the institution and the fee levied on the area occupied by the shop, subject to a maximum of Rs. 8 per square yard and a minimum of Rs. 2 per square yard.

In respect of space taken in terms of yards for keeping stalls the following rates are leviable.—

	Rs.	A.	P.
1. For sale of flowers, betel leaves and plantains brought in head-loads in baskets	0	8	0
2. Per cart-load of cocoanuts	0	8	0
3. For offerings of silver pieces to the Deity by the devotees with the usual concessions in respect of six families—For every place of the offering	8	0	0
4. In respect of every stall opened on the pials of houses in the bazaar street	16	0	0
5. For every hotel run in houses	16	0	0
6. In cases where “Bhakshya” dishes are sold in hotels for every such hotels.	20	0	0

					Rs. A. P.
7.	In respect of every show in the case of dramas	.	.	.	20 0 0
8.	Do.	Do.	cinemas	.	20 0 0
9.	Do.	Do.	circuses	.	20 0 0
10.	For every merry-go-round	.	.	.	16 0 0
11.	For every mill-stone Stall	.	.	.	8 0 0
12.	For every shop selling camphor, flowers, fruits, etc., near temples	.	.	.	2 0 0
13.	For every mutton or meat-shop	.	.	.	20 0 0
14.	In respect of picture shows through magnifying glasses—per every premises for every day	.	.	.	16 0 0
15.	For Arrack and Toddy shops—per day	.	.	.	12 0 0
16.	For every Pottery shop	.	.	.	2 0 0
17.	For sale in head-loads (except in the case of sale of fuel and grass)	.	.	.	1 0 0
18.	For sale on push-carts—for every cart	.	.	.	2 0 0
19.	From every Hawker in the streets	.	.	.	2 0 0

PART III

STATEMENT OF TAXES CHARGEABLE ON ARTICLES IN A MARKET OR SHANDY

Sl. No.	Description of Shops	Maximum Rates		
		I Class	II Class	III Class
		Rs. A. P.	Rs. A. P.	Rs. A. P.
1	Pottery stall	..	0 8 0	0 4 0
2	Sweet-meat, Coffee, Cakes, etc., Restaurant	1 0 0	0 8 0	0 4 0
3	Cloth stall (stitched and unstitched) bed sheets, blankets, etc., stall	1 0 0	0 8 0	0 4 0
4	Groundnut stall	..	0 4 0	0 2 0
5	Rice, Dhall, Ragi, etc., Bran stall	1 0 0	0 8 0	0 4 0
6	Indigenous Drugs stall	..	..	0 2 0
7	Vegetable stall per basket (worth 8 annas)	..	..	0 2 0
8	Vegetable stall per basket (less than 8 annas)	..	..	0 1 0
9	Fish stall	..	..	0 4 0
10	Bamboo Winnows, Basket, Mat, etc., stall	..	..	0 4 0
11	Cutlery Stall (Knife, Scissors, etc.)	1 0 0	0 8 0	0 4 0
12	Fruit stall	..	0 4 0	0 2 0
13	Tobacco stall	1 0 0	0 8 0	0 4 0
14	Eggs stall	..	..	0 4 0
15	Betel leaves stall for every 25 bundles and fraction thereof	..	..	0 2 0
16	Match box stall	..	..	0 2 0

Sl. No.	Description of Shops	Maximum Rates		
		I Class	II Class	III Class
		Rs. A. P.	Rs. A. P.	Rs. A. P.
17	Kaddipudi stall . . . . .	..	0 8 0	0 4 0
18	Bakery stall . . . . .	..	..	0 4 0
19	Kerosene oil stall . . . . .	..	..	0 4 0
20	Jaggery stall	1 0 0	0 8 0	0 4 0
21	Salt stall . . . . .	..	..	0 4 0
22	Onions, garlick, etc., stall . . . . .	..	..	0 4 0
23	Cocoanut stall	0 8 0	0 4 0	0 2 0
24	Tailor's shop (with tailoring machine) . . . . .	..	..	0 8 0
25	Bangles' stall . . . . .	..	..	0 4 0
26	Silk or yarn stall . . . . .	..	..	0 8 0
27	Areca nut stall . . . . .	..	0 8 0	0 4 0
28	Snuff stall . . . . .	..	..	0 4 0
29	Flower stall . . . . .	..	..	0 2 0
30	Stalls other than those described above	0 8 0	0 4 0	0 2 0
31	Snacks Stall . . . . .	..	..	0 8 0
32	Meat or butcher's stall	1 0 0	0 8 0	0 4 0
33	Cattle stall per sheep and goat . . . . .	..	..	0 2 0
34	Cows, bulls, bullocks per head . . . . .	..	..	0 8 0
35	Sheep per head . . . . .	..	..	0 4 0
36	Fowls per head . . . . .	..	..	0 2 0
37	Hides and skins—each . . . . .	..	..	0 2 0
38	Combined stalls containing two or three varieties of stalls of the description noted above	1 0 0	0 8 0	0 4 0
39	For every laden cart	1 0 0	..	..
40	For every unladen cart	0 8 0	..	..
41	Hardware shop	1 0 0	0 8 0	0 4 0
42	Vessels shop	1 0 0	0 8 0	0 4 0
43	Horse-shoeing . . . . .	..	..	0 8 0
44	Glassware stall . . . . .	..	0 8 0	0 4 0
45	Chunnam stall . . . . .	..	..	0 2 0
46	Kadalepuri stall . . . . .	..	..	0 4 0

Sl. No.	Description of Shops	Maximum Rates		
		I Class	II Class	III Class
		Rs. A. P.	Rs. A. P.	Rs. A. P.
47	Grains measuring stall	1 0 0	..	..
48	Goldsmith's stall	2 0 0	..	..
49	Half-a-ton Lorry on each Lorry	1 0 0	..	..
50	Sugarcane stall . . . . .	..	..	0 4 0
51	Sheep and goat skins . . . . .	..	..	0 2 0

NOTE—1. Stalls having articles of the value of Rs. 25 and more should be classified as I Class.

2. Stalls having articles of the value of more than Rs. 5 and less than Rs. 25 should be classified as II Class.

3. Stalls having articles of the value of less than Rs. 5 should be classified as III Class.

4. Those who have paid tolls on a laden-cart and have obtained a receipt for the same are exempted from the payment of shop tax.

5. Head-loads of the value of less than four annas are exempted from shandy tax.

6. Articles (1) locally-made or (2) of handloom manufacture, bearing the seal of the Mysore Industries and Commerce Department, are exempted from the payment of shandy tax.

THE PEPSU PANCHAYAT RAJ ACT, 2008

PEPSU Act No. VIII of 2008 (1951)

An Act to provide for the better administration by Panchayats of rural areas of the State of Patiala and East Punjab States Union.

WHEREAS it is expedient to provide for the better administration by Panchayats of the rural areas of the State of Patiala & East Punjab States Union ;

It is hereby enacted as follows :—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the PEPSU Panchayat Raj Act, 2008. Short title
extent and
commence-
ment.

(2) It extends to the whole of the State of Patiala & East Punjab States Union.

(3) It shall come into force on the first day of Sawan 2008 corresponding to the sixteenth day of July 1951.

2. (1) In this Act, unless there is anything repugnant in the subject or context,— Definitions.

(a) “Adalat” means a Panchayati Adalat constituted for any circle under section 56;

(b) “adult” means a person, male or female, who has attained the age of twenty-one years on the first day of Baisakh of the year in which the register of members of the Sabha area is prepared;

(c) “building” means any shop, house, hut, out-house, shed or stable, whether used for the purpose of human habitation or otherwise and whether of masonry, bricks, wood, mud, thatch, metal or any other material whatever, and includes a wall;

(d) “common land” means land which is not in the exclusive use of any individual and has by usage, custom or prescription been reserved for the common purposes of village community or has been acquired for such purposes;

(e) “Director” means the Director of Panchayats appointed under this Act;

(f) “Government” means Government of the State of Patiala & East Punjab States Union;

- (g) "Panch" means a member of Nagar Panchayat elected or appointed under this Act;
 - (h) "Panchayat" means the executive committee of the Nagar Sabha constituted under section 11;
 - (i) "prescribed" means prescribed by rules made under this Act;
 - (j) "public place" means any place, building or structure situated within the jurisdiction of a Nagar Sabha area which is not in the exclusive occupation of any individual or class of individuals;
 - (k) "public servant" means a public servant as defined in section 21 of the Indian Penal Code, 1860;
 - (l) "public street" means any road, street, lane, square, court, alley or passage accessible, whether permanently or temporarily, to the public and includes the drains or gutters on either side and the land up to the defined boundary of any abutting property, notwithstanding any projection over such land of any verandah or other superstructure;
 - (m) "Sabha" means a Nagar Sabha established under section 4;
 - (n) "Sabha area" means any area declared to be a Sabha area under section 3;
 - (o) "Schedule" means a Schedule appended to this Act;
 - (p) "State" means the State of Patiala and East Punjab States Union;
 - (q) "watercourse" means any channel which is maintained at the cost of the irrigators and is supplied with water from any canal to which the Northern India Canal and Drainage Act, 1873, in force in the State, applies, and includes all subsidiary works connected with such channel except the sluice or outlet through which water is supplied to such channel;
 - (r) "unit of labour" means four hours of manual labour.
- (2) In this Act—
- (a) the expression "offence", "cognizable offence", "complaint", "officer-in-charge of a police station", and "police station" have the same meaning as in section 4 of the Code of Criminal Procedure, 1898;
 - (b) the expression "decree", "legal representative" and "movable property" have the same meaning as in section 2 of the Code of Civil Procedure, 1908;
 - (c) the expression "land-owner", "tenant", "rent" and "land revenue" have the same meaning as in the Punjab Land Revenue Act, 1887, in force in the State.

CHAPTER II

ESTABLISHMENT AND CONSTITUTION OF NAGAR SABHA

3. (1) The Government may, by notification in the official Demarcation Gazette, declare any village or group of villages situated within the limits of one tehsil to be a Sabha area for the purposes of this Act and may at any time in the like manner alter the boundaries of any area so declared: of Sabha area.

Provided that before issuing a notification for the purposes of altering the boundaries of any such area the Government shall give the Sabha or Sabhas concerned a reasonable opportunity for showing cause against the proposed change:

Provided further that such area shall not include—

- (a) any part of a municipality or cantonment,
- (b) any small town or any notified area established under section 241 of the Punjab Municipal Act 1911, unless a majority of voters in any such town or notified area express their desire in writing for the declaration of such area as a Sabha area.

(2) Where any small town or notified area has been under sub-section (1) declared to be a Sabha area, the assets and liabilities thereof shall vest in the Sabha concerned.

(3) Where any area is included in a Sabha area, such area shall as from the date of the notification under sub-section (1) become subject to all notifications, rules, regulations, bye-laws and orders made under this or any other enactment in force in the aforesaid Sabha area.

(4) No Sabha area shall be wholly or partly included in a small town or notified area unless two-thirds of the voters of that area agree in writing to such inclusion.

4. (1) The Government may, by notification in the official Gazette, establish a Nagar Sabha for every Sabha area. Establishment of a Nagar Sabha.

(2) Every Nagar Sabha shall, by the name notified under sub-section (1), be a body corporate having perpetual succession and a common seal, and, subject to any restriction or condition imposed by or under this Act or any other law, shall have power to acquire, hold, administer and transfer property, movable or immovable, and to enter into contracts, and shall by the said name sue or be sued and do all such things as are necessary for the purposes for which it is constituted.

5. (1) Every adult who permanently resides or owns immovable property within the Sabha area shall be a member of the Sabha, provided that no such adult shall be entitled to be or to remain a member of the Sabha, if he is— Membership of Sabha.

- (a) of unsound mind and has been found to be so by a competent court, or
- (b) suffering from leprosy, or

- (c) undischarged insolvent, or
- (d) servant of the Government or a local authority serving in, or having jurisdiction over, any area of the Sabha or part thereof, or
- (e) of an election offence; or
- (f) convicted of an offence involving moral turpitude or ordered to give security for good behaviour under section 110 of the Code of Criminal Procedure:

Provided that the disqualification under clause (c) or clause (e) or clause (f) may be removed by an order of the Government of the prescribed authority.

(2) The prescribed authority shall cause to be prepared a register in the prescribed form showing the names of the persons entitled to be members of the Sabha on the date of its establishment, and such register shall be revised at such times, by such authority and in such manner as may be prescribed.

(3) The name of any person shall not be included in the register of more than one Sabha.

Terms
members.

6. Every person whose name appears in the register of the Sabha shall, subject to any revision thereof and until his death or until he incurs any disqualification specified in subsection 1 of section 5 or until the area in which he resides is excluded from the jurisdiction of the Sabha or until the abandonment of his permanent residence in the Sabha area continue to be its member :

Provided that a person who has ceased to be a member by reason of a disqualification mentioned in section 5, or abandonment of permanent residence in the Sabha area, as the case may be, shall on the removal of the disqualification and on an application made by him to the Sarpanch of the Sabha in this behalf, be after such enquiry as may be prescribed, re-enrolled as a member thereof.

Disqualifica-
tion defect
in enrolment
etc. not to
affect vali-
dity of pro-
ceeding or
acts.

7. Any act or proceeding of the Sabha shall not be liable to be called into question on the ground merely of any disqualification, defect or omission in the enrolment of a member of any Sabha if not less than two-thirds of the members concerned were, at the time the act is done or the proceeding is taken, duly qualified members thereof.

Effect of in-
clusion of
Sabha area in
a municipa-
lity, etc.

8. If the whole of the area of a Sabha is included in a municipality, cantonment, notified area, or small town, the Sabha shall cease to exist and its assets and liabilities shall be disposed of in the prescribed manner.

Reference of
difficulties,
etc. under this
Act to
Government.

9. If, at any time, any question or difficulty arises regarding the interpretation of any provision of this Act or any rule made thereunder or any matter arising out or relating to such interpretation, such question or difficulty shall be referred to the Government and the decision of the Government on any such reference shall be final.

CHAPTER III

SABHA MEETINGS AND FUNCTIONS

10. (1) Every Sabha shall hold two general meetings in each year, one soon after harvesting of the Sawani crop (hereinafter called the Sawani meeting) and the other soon after the harvesting of the Hari crop (hereinafter called the Hari meeting):

Meetings and
quorum of
Sabha.

Provided that the Sarpanch may at any time or upon a requisition in writing of not less than one-fifth of the members shall, within thirty days from the receipt of such requisition call an extraordinary general meeting. The time and place of the meetings of the Sabha shall be published in the prescribed manner.

(2) For any meeting of the Sabha one-fifth of the total number of its members shall form a quorum:

Provided that the provisions of this sub-section shall not apply to a meeting (other than Sawani or Hari meeting), adjourn for want of quorum.

11. (1) As soon as may be after the preparation of the register referred to in sub-section (2) of section 5, the Nagar Sabha shall in the prescribed manner elect from amongst its members a President and a Vice-President who shall respectively be called "Sarpanch" and "Naib-Sarpanch".

Establishment
and constitu-
tion of the
Nagar Panch-
ayats.

(2) After the election of the Sarpanch and Naib-Sarpanch the Sabha shall in the same meeting elect from amongst its members in the prescribed manner an executive committee styled the Nagar Panchayat, the members thereof to be called Panches.

(3) The number of Panches of the Nagar Panchayat shall be from five to nine as may be determined by the Government taking into account the population of the Sabha area, and they shall be in addition to the Sarpanch and Naib-Sarpanch who shall also be respectively the Sarpanch and Naib-Sarpanch of the Nagar Panchayat.

(4) Any member of the Sabha may, on furnishing the prescribed security and on such other conditions as may be prescribed within twenty days of the date of announcement of the result of an election, present to the prescribed authority an election petition in writing against the election of any person as Sarpanch, Naib-Sarpanch or Panch.

(5) The prescribed authority may—

- (a) if it finds, after such enquiry as it may deem necessary, that a failure of justice has occurred, set aside the said election, and a fresh election shall thereupon be held ;
- (b) if it finds that the petition is false or frivolous or vexatious, dismiss the petition and order the security to be forfeited to the Panchayat.

(6) Except as provided in this section, the election of a Sarpanch, Naib-Sarpanch or Panch shall not be called in question before any authority or in any court.

Oath and term of Office; resignation or removal.

12. (1) Before entering upon the duties of their office the Sarpanch, Naib-Sarpanch and the Panches shall take an oath in the form specified in Schedule A:

Provided that a person re-elected as aforesaid need not take a fresh oath.

(2) The Sarpanch, Naib-Sarpanch and Panches shall hold office for a period of three years :

Provided that—

- (a) the Sarpanch, Naib-Sarpanch or a Panch may, by writing under his hand addressed to the Panchayat, resign his office.
- (b) subject to the approval of the Director, the Sarpanch, Naib-Sarpanch or a Panch may be removed from his office by a two-thirds majority of the votes of the members of the Sabha at its ordinary meeting.

Appointments in cases of default.

13. If for any reason a Panch, Naib-Sarpanch or Sarpanch is not elected or refuses to take oath, or a casual vacancy is not filled, within the time prescribed, the prescribed authority may appoint the necessary number of duly qualified persons to hold the vacant office, and any person so appointed shall hold office as if he had been duly elected under this Act.

Filling up of casual vacancies.

14. Whenever a vacancy occurs by the death, resignation or removal of a Panch, Naib-Sarpanch or a Sarpanch, a New Panch, Naib-Sarpanch or Sarpanch, as the case may be, shall, subject to the provisions of sections 11, 12 and 13, be elected in such manner as may be prescribed and the person so elected shall hold office for the unexpired portion of the term of the member in whose place he is elected.

Budget of Sabha.

15. (1) The Sabha shall at its Sawani meeting consider and pass the budget for the following year and at its Hari meeting the accounts of the preceding year:

Provided that if the Sabha fails to pass the budget, as required under sub-section (3) of section 127 the Director may after such inquiry as he deems fit, sanction the budget with such modifications as he may deem necessary and the budget so sanctioned shall have the same force and effect as if it had been duly passed by the Sabha and approved by the prescribed authority as required by sub-section (4) of the said section.

(2) At both the general meetings the Sabha shall consider the six-monthly reports of the working of the Panchayat submitted by the Panchayat and draw out plans for the remaining part of the year.

CHAPTER IV

PANCHAYATS—CONDUCT OF BUSINESS, DUTIES, FUNCTIONS
AND POWERS

16. (1) The meetings of the Panchayat shall be public Meetings and held at least once a month at some place within the quorum. Sabha area, whenever called by the Sarpanch or, in his absence, by the Naib-Sarpanch :

Provided that a meeting shall be called by the Sarpanch or in his absence by the Naib-Sarpanch within three days whenever required in writing by a majority of the Panches.

(2) A quorum for any meeting of the Panchayat shall be a majority of the Panches.

(3) The decision at a meeting of the Panchayat shall be by single majority of the votes of the members present and voting and the Chairman shall have no vote except a deciding vote in case of an equal division.

17. The Sarpanch and in his absence the Naib-Sarpanch shall be responsible for the proper maintenance of all prescribed records and registers. Maintenance of Panchayat records.

18. The Panchayat may employ such servants as may be necessary for carrying out the duties imposed on it by or under this Act and the salary of such servants shall be a charge on the Sabha Fund. Employment of servants.

19. Subject to such rules as may be made under this Act, the Panchayat may suspend, dismiss or otherwise punish any of its servants. Power to punish servants.

20. (1) It shall be the duty of a Panchayat, within the limits of its funds, to make reasonable provision for carrying out the requirements of the Sabha area in respect of the following matters :— Compulsory duties and functions.

- (a) public ways, roads, public places and culverts including the sanitation, construction, repair and maintenance;
- (b) the lighting of public ways and places;
- (c) the removal of encroachments on public streets, public places and property vested in the Sabha;
- (d) wells, water-pumps, ponds, *baolies*, springs, tanks for the supply of water for drinking, washing and bathing and their periodical cleansing and disinfection;
- (e) the construction of drains, and the disposal of drainage water and sullage;
- (f) the cleansing of streets, the removal of rubbish heaps, jungle growth and prickly pear, the filling in of disused wells, insanitary ponds, pools, ditches, pits, or hollows, and other improvements of the, sanitary condition of the Sabha area ;

- (g) the provision of public latrines and arrangements to cleanse latrines whether public or private;
 - (h) burial and burning grounds and the disposal of unclaimed corpses, carcasses and cattle;
 - (i) the planting and preservation of trees;
 - (j) buildings for public use;
 - (k) preventive and remedial measures connected with epidemic or malaria directed by the Government;
 - (l) assisting the development of agriculture, home handicraft and village industries and the destruction of harmful weeds, and carrying on of crop experiments;
 - (m) maintenance of a grain fund for the purchase and supply of seed to cultivators on conditions to be determined by the Panchayat;
 - (n) registering of births and deaths and maintenance of such records relating to cattle census, population census, electoral rolls and other statistics as may be prescribed;
 - (o) maintenance of the register mentioned in section 5;
 - (p) organising, subject to the rules made in this behalf, a village volunteer force for watch and ward and for assisting the Panchayat and Adalat in the discharge of their functions;
 - (q) maintenance of any building or other property belonging to the Sabha or transferred to it for purposes of management;
 - (r) regulation of *melas* and markets within the Sabha area;
 - (s) management and care of common grazing grounds and the common land;
 - (t) rendering assistance in extinguishing fire, and protecting life and property when fire occurs;
 - (u) allotment of places for storing manure;
 - (v) any other matter which the Government may by notification declare to be a suitable subject for administration by Panchayats generally or by any particular Panchayat.
- (2) The Government may for the purposes of clause (p) provide the Panchayat with such arms and ammunition as may be necessary for the defence and maintenance of peace within the Sabha area.

Discretionary
duties and
functions.

21. Subject to the provisions of this Act and the rules made thereunder, a Panchayat may also make such provision as it thinks fit for carrying out the requirements of the Sabha area in respect of the following matters :—

- (a) medical relief, maternity and child-welfare;
- (b) the organisation and celebration of public festivals other than religious festivals;

- (c) public playgrounds, recreation parks, organisation of games and sports, supply of sports material and holding of tournaments;
- (d) the promotion of agricultural credit and of measures to relieve rural indebtedness and poverty, including establishment of provision and implement stores and credit centres;
- (e) the maintenance of stores for providing improved seeds, fertilizers, implements and other requirements of the inhabitants of the Sabha area;
- (f) regulating the places of slaughter of animals and the curing, tanning and dyeing of skins of dead animals;
- (g) destruction of stray dogs;
- (h) cattle breeding, first-aid centre for animals and the voluntary registration of the sales of cattle, camels and horses;
- (i) relief against famine or other natural calamity;
- (j) establishment and maintenance of primary schools and adult educational centres, libraries and reading rooms;
- (k) any other measure calculated to promote the moral, social or material well-being or convenience of the inhabitants of the Sabha area;
- (l) public radio-sets and gramophones;
- (m) promotion and encouragement of cottage industries;
- (n) any other matter which the Government may by notification declare to be fit for being undertaken by Panchayats generally or by any particular Panchayat.

22. Subject to the provisions of this Act and the rules made thereunder, two or more Panchayats may establish and maintain common dispensaries, maternity and child-welfare centres and such other institutions relating to any of the matters specified in sections 20 and 21. Establishment of common dispensaries, etc.

23. (1) A Panchayat may by order in writing specifying therein a reasonable period— Removal of encroachment and nuisance.

- (a) require the owner or occupier of any building or land to remove any encroachment by him on a public way, place or drain;
- (b) require the person concerned—
 - (i) to close, remove, alter, repair, cleanse, disinfect or put in good order any latrine, urinal, water-closet, drain, cess-pool or other receptacle for filth, sullage-water, rubbish or refuse pertaining to any land or building or to remove or alter any door or trap or construct any drain for any such latrine, urinal or water-closet as opens on to a street or drain, or to screen such latrine, urinal or water-closet by constructing a roof and wall or fence;

- (ii) to cleanse, repair, cover, fill up, drain off, deepen, or to remove water from a private well, tank, reservoir, pool, pit, depression or excavation which may appear to the Panchayat to be injurious to health or offensive to the neighbourhood;
- (iii) to clear off any vegetation, undergrowth, prickly pear or scrub-jungle;
- (iv) to remove any dirt, dung, night-soil, manure or any noxious or offensive matter;
- (c) require the owner of any wall or building, deemed by the Panchayat to be in ruinous state or in any way dangerous, to remove or repair such wall or building;
- (d) require the owner or occupier of any building or property to keep his building or property in a sanitary state;
- (e) require the owner of any dog or other animal suffering or reasonably suspected to be suffering from rabies or bitten by any dog or any other animal suffering or suspected as aforesaid, to destroy or confine or cause to be confined such dog or animal;
- (f) require the owner or occupier of any agricultural land to destroy *pohli* or any other harmful weed from such land.

(2) If any work directed to be done under this section is not executed within the period specified in the Order, the Panchayat may cause such work to be executed and recover from the owner or occupiers a sum not exceeding the expenses actually incurred.

General Orders. 24. A Panchayat may by general order to be published in the manner prescribed—

- (a) regulate the collection, removal, storage and disposal of manure, street sweepings, sullage, dirt and dust:

provided that nothing in this clause shall prevent any person from collecting in manure pits, approved by the Panchayat, upon land in his occupation outside the residential area of a village, any such matter as is required for agricultural purposes;

- (b) prohibit the use of water of any well, pond, or excavation suspected to be dangerous to public health;
- (c) regulate or prohibit the watering of cattle or bathing or washing at or near any well, pond or excavation water whereof is reserved for human consumption;
- (d) regulate or prohibit—
 - (i) the steeping of timber, hemp or any other plant in any pond or excavation,
 - (ii) the dyeing or tanning of skins,
 - (iii) the establishment of brick kilns,

- (iv) the excavation of earth or stone or other material within a distance of two hundred and twenty yards from the residential area of a village :

Provided that nothing contained in sub-clause (iv) shall prevent any person from making any excavation for the purposes of laying foundations of any buildings or other structure;

- (e) regulate, subject to the customary rights of any person or class of persons, the disposal of the carcases of animals dying within the Sabha area except animals slaughtered for consumption;
- (f) regulate the construction of buildings or the extension or alteration of any existing building or the *abadi*;
- (g) regulate *melas* and markets;
- (h) regulate such matters as may be necessary for the general protection of standing crops and trees on the common land;
- (i) regulate with the previous permission of the Government the parking of public vehicles.

25. Any person who disobeys an order of the Panchayat under section 23 or a general order under section 24 shall be punishable with fine which may extend to twenty-five rupees; and if the breach is a continuing one, with a further fine which may extend to five rupees for every day after the first during which the breach continues. Penalty for disobedience of order or notice of the Panchayat.

26. (1) On a complaint to the Panchayat by any person that a peon, bailiff, police constable, chaukidar, patrol of the Irrigation Department, forest guard, patwari or vaccinator, or any other class of Government servants to which Government may by notification extend the provisions of this section, has in his official capacity misconducted himself within the Sabha area, the Panchayat may enquire into the matter and submit to the superior officer whom it may concern or to the Deputy Commissioner, a report along with the record of the evidence : Power to enquire and make report about misconduct of certain officials.

Provided that nothing in this section shall be construed as empowering the Panchayat to summon any such official or to exercise any control, disciplinary or otherwise, over him.

(2) The superior officer or the Deputy Commissioner, as the case may be, shall, after such further enquiry as he may deem fit, take suitable action in the matter and inform the Panchayat of such action.

27. On a report by any person that a patwari or chaukidar has failed to perform any duty imposed upon him by any law or rules, the Panchayat may, by notice fixing a reasonable period, require him to perform the said duty and on his failure to do so shall report the matter to the superior officer concerned or to the Deputy Commissioner who shall communicate to the Panchayat the action taken by the Collector. Supervision over patwaris and chaukidars.

Power to contract for collection of taxes and other dues.

28. Notwithstanding any law for the time being in force, the Panchayat may, with respect to the Sabha area or any part thereof, enter into a contract—

- (a) with the Government or a local body to collect land revenue or any taxes or dues payable to the Government or a local body on being allowed such collection charges as may be prescribed; or
- (b) with any proprietor or proprietors to collect rent on his or their behalf on being allowed by the proprietors such collection charges as may be prescribed.

Power to object to the grant of a licence for the sale of any excisable articles.

29. (1) No licence for the sale of any excisable article within the meaning of sub-section (6) of section 3 of the Punjab Excise Act, 1914, in force in the State, shall be granted within the Sabha area if the Panchayat, by a resolution confirmed by a majority of members in a meeting of the Sabha convened for the purpose, prefers objection to the grant of the licence:

Provided that such licence may be granted by the authority concerned notwithstanding such objection, if the Collector for reasons to be recorded in writing finds that illicit distillation within the Sabha area committed or connived at, within two years of the date of such objection, by any section of the residents of the Sabha area and such finding of the Collector shall have effect for one year from the date thereof.

(2) In this section “excisable article” means any excisable article as defined in the Punjab Excise Act, 1914, in force in the State.

Bye-laws.

30. (1) A Panchayat may, from time to time, make bye-laws, consistent with this Act and rules made thereunder for carrying out all or any of the purposes of this Act.

(2) In making any bye-law under sub-section (1) the Panchayat may provide that contravention of the bye-law shall be punishable with fine which may extend to ten rupees and in case of continuing contravention, with a further fine of one rupee for every day after the first during which the contravention continues.

(3) The power to make bye-laws conferred by this section shall be subject to the condition of previous publication for such time and in such manner as the Director may direct that no bye-law shall come into force until it has been confirmed by the Director of Panchayats.

Transfer of forest area and irrigation work.

31. The Government may, subject to such conditions as may be prescribed, transfer to any Panchayat—

- (a) the management and maintenance of a forest within or near the Sabha area;
- (b) the protection of any irrigation work and its extension, and the regulation of the distribution of water from any such work.

32. When a Sabha or a number of Sabhas which have ^{Acquisition of land.} combined for a joint purpose under the provisions of this Act, require any land to carry out any purpose under this Act, the Sabha or Sabhas shall—

- (a) try to obtain the land by private negotiation, and
- (b) If such negotiation fails, such Sabha or Sabhas may make an application in the prescribed form to the Collector to acquire the land and the Collector shall acquire such land for such Sabha or Sabhas in accordance with the provisions of the law relating to acquisition of land for the time being in force.

Explanation.—In this Chapter the expression “Land” includes benefits to arise out of land, and things attached to the earth or permanently fastened to anything attached to the earth.

33. (1) Subject to any special reservation made by the ^{Property} Government, all public property situate within its local limits shall vest in the Sabha and shall, with all other property ^{vested in a Sabha.} which may become vested in the Sabha, be under the direction, management and control of the Panchayat who shall maintain a register and a map of all such property and of the immovable property which the Sabha owns.

(2) All markets and fairs held upon public land shall be managed and regulated by the Panchayat and the receipts derived therefrom shall be credited to the Sabha Fund.

34. The Panchayat may, for the discharge of its adminis- ^{Sub-Commit-}trative functions and duties, appoint sub-committees which ^{tees.} shall subject to its general control, exercise such powers as may be delegated to them by the Panchayat.

35. A Panchayat shall if so prescribed and so far as practi- ^{Assistance to} cable assist any Government servant or Government Depart- ^{Government}ment in the performance of his or its duties within the Sabha ^{servants and} area. ^{Departments.}

36. A Panchayat shall have control over all public streets, ^{Power over} squares, places, water-ways (other than canals as defined in ^{public streets.} sub-section (1) of section 3 of the Northern India Canal and ^{water-ways,} drainage Act, 1873) situate within its local limits not being ^{etc.} under the control of the Government or any other authority and may do all things necessary for the maintenance and repair thereof, and may—

- (a) construct new bridges or culverts;
- (b) divert, discontinue or close any public street;
- (c) discontinue, or close any culvert or bridge;
- (d) widen, open, enlarge or otherwise improve any public street, square, culvert or bridge with minimum damage to the neighbouring areas;
- (e) deepen or otherwise improve water-ways;
- (f) cut any hedge or branch of any tree projecting on a public street.

Joint works
or under-
takings.

37. (1) Subject to such restrictions as may be prescribed a Panchayat may associate with any other body or bodies being a Panchayat, local authority or institution established for the development of Panchayats and recognised by the Government—

- (a) in works or undertakings which benefit the Sabha area and the areas under the jurisdiction of such other body or bodies;
- (b) in appointing from among its members and those of such other body or bodies a joint committee for any purpose of common interest and in delegating to such committee any of its powers and in framing regulations governing such committee;
- (c) in contributing funds to any work or institution from which the area under the Panchayat benefits (notwithstanding that such work or institution is undertaken or maintained outside that area).

(2) Any dispute arising between such bodies shall be referred to the Government or such officer as it may appoint in this behalf whose decision shall be final and not liable to be questioned in any court or before any authority.

CHAPTER V

CONCILIATION

Definition.

38. In this Chapter unless the context requires otherwise—

- (a) 'dispute' means a dispute, whether civil or criminal, and includes an offence;
- (b) 'Board' means the Conciliation Board constituted for a Sabha area.

Conciliation
Board and
its consti-
tution.

39. There shall be a Conciliation Board for every Sabha area (to be called Samjhauta Board) consisting of the Sarpanch or, in his absence, of the Naib-Sarpanch and two Panches from among the panel of Panches—each party to the dispute to select one panch :

Provided that the Sarpanch or Naib-Sarpanch shall not take part in the conciliation proceedings if he is—

- (a) a party to, or is in any way connected with, the dispute ;
- (b) the father, grandfather, brother, husband or first cousins of either of the parties to the dispute ;

Provided further that where—

- (i) the Sarpanch is a party to, or connected with, the dispute or related to any of the parties as aforesaid the Naib-Sarpanch shall perform the duties of the Sarpanch ;
- (ii) both the Sarpanch and the Naib-Sarpanch are parties to the dispute or related to either of the parties as aforesaid, one of the Panches to be elected for the purpose by the Panches shall perform the duties of the Sarpanch.

40. The Board may hold its proceedings at any place ^{Place of proceedings.} within the Sabha area.

41. In case of an offence the Board of the Sabha within ^{Jurisdiction.} whose area the offence has been committed, and in case of a civil dispute the Board of the Sabha within whose area the defendant resides or carries on business or works for gain, shall have jurisdiction to undertake conciliation.

42. (1) No Adalat shall take cognizance of any dispute ^{Bar to sue or} unless a certificate of failure of conciliation proceedings in ^{file a com-} respect thereof has been produced before it by the complain- ^{plaint} ant or, as the case may be, the plaintiff.

(2) If any complaint or suit is filed before the Adalat without the matter having been referred to the Board, the Adalat shall refer the dispute to the Sarpanch concerned for taking conciliation proceedings.

43. (1) Either of the parties to a dispute and in case of ^{Application for concilia-} an offence the complainant shall refer the dispute to the Board concerned for conciliation before filing a suit or complaint in respect thereof; provided the dispute is cognizable by the Adalat.

(2) The application for conciliation may be made in writing or orally and must state the names and description of the parties and a statement of the dispute, and shall, if made in writing, be signed by the person making it.

44. (1) On receiving the application the Board shall fix ^{Appearance} a date, time and place for hearing the dispute and shall ^{of parties and} inform the other party to the dispute of the same allowing a ^{procedure.} reasonable time for appearance:

Provided that in case such party is a minor either of his parents or lawful guardian shall also be informed by the Board of the first date and place of hearing.

(2) Each party to the dispute shall appear before the Board at the time and date appointed.

(3) If a party due to any valid reason is unable to appear at the appointed date, time and place fixed as aforesaid he shall a day previous to the hearing inform the Board of his inability to attend and the reason therefor.

(4) The person or persons who fail to comply with the provisions of sub-section (3) shall be liable to a fine up to ten rupees and for the next default to a fine extending to rupees twenty, and the fine shall form a part of the Sabha Fund.

(5) The proceedings shall not be open to the public but the husband of a party or parents or lawful guardian of a party who is minor can be present at the hearing.

45. The conciliation proceedings shall be oral and as far ^{Proceedings} as may be continuous, and shall be concluded within one ^{to be oral and} month of the date of reference. ^{continuous.}

Production of witnesses. **46.** The Board shall hear the witnesses who are produced before it by the parties or appear voluntarily, but it shall not have any power to summon them to appear and give evidence before it and their evidence shall not be taken down in writing.

Hearing of witnesses. **47.** The Board shall have no power to administer an oath either to the parties or to their witnesses.

Result of conciliation. **48.** If a compromise between the parties is effected it shall be reduced into writing and brought on record in the language of the parties.

Explanation.—If the parties know different languages then it shall be recorded in both the languages.

(2) The record shall contain --

- (a) the time and place of the proceedings ;
- (b) the names of the parties appearing, their lawful representatives and guardians, if any;
- (c) a brief statement of the case of each party;
- (d) the dispute and its subject-matter;
- (e) the settlement :

Provided that in a case where no compromise has been arrived at only items at (a), (b) and (c) are to be mentioned as also the fact of the failure to arrive at a compromise.

(3) The record of the proceedings shall be read out to the parties or given to them for reading and the fact that the same has been read over and admitted to be correct shall be noted.

(4) The record shall be signed or, as the case may be, thumb-marked by the parties and the members of the Board.

Maintenance of the registers and their safe custody. **49.** (1) The Sarpanch or in his absence the Naib-Sarpanch shall be responsible for the maintenance and custody of the register of the conciliation proceedings. The register when full shall be sent to the Director for safe custody.

(2) The parties or their representatives shall be entitled to a copy of the result of the proceeding on a payment of rupee one for each copy which shall be attested by the Sarpanch and bear the dates of application and the supply of copy and the name of the person applying for the same.

Execution of the Settlement. **50.** (1) The settlement shall take effect as if it were a decree or order of the Adalat.

(2) The Adalat or the court, as the case may be, shall inform the Conciliation Board of the execution of the settlement and the Board shall make an entry to that effect in its register.

(3) Notwithstanding anything contained in the law of registration in force for the time being in the State the settlement made under section 46 shall not be liable to registration.

51. (1) The conciliation proceedings shall be deemed to have terminated on the day of hearing when the complainant or the plaintiff fails to appear either personally or through his representative at a hearing, and such termination shall be deemed to be a failure of conciliation proceedings. Termination of proceedings

(2) If the proceedings are not terminated within one month, it shall also be deemed to be a failure of conciliation proceedings.

52. The time spent in proceedings before the Board shall be excluded when counting the period of limitation for any suit or application. Saving of limitation.

53. (1) No member of the Board shall disclose to any person, court or authority anything which has come to his knowledge in the course of conciliation proceedings, nor shall he be compelled by any court or authority to answer any question relating to such proceedings. Secrecy of proceedings.

(2) A person contravening the provisions of sub-section (1) shall be liable to simple imprisonment which may extend to six months or fine not exceeding one thousand rupees or both.

(3) Any person aggrieved may file a complaint in respect of the contravention of the provisions of sub-section (1) before a magistrate of the first class.

CHAPTER VI

CONSTITUTION AND ESTABLISHMENT OF PANCHAYATI ADALAT

54. The Government or the prescribed authority may divide any district into circles, each circle comprising one or more Sabha areas, and establish a Panchayati Adalat for each circle. Division of districts into Panchayati Adalat circles.

Provided that Sabha areas comprising a circle shall, as far as possible, be contiguous.

55. (1) The Government may, in its discretion, classify the Panchayati Adalats as Class I and Class II Adalats for the purpose of discharging judicial functions imposed by or under this Act. Classification of Panchayati Adalats.

(2) The Government may direct that any Adalat be transferred from one class to another.

(3) (a) The Government may, by notification in the official Gazette, withdraw from an Adalat or class of Adalats the power to take cognizance of all or any of the offences or civil or revenue suits mentioned respectively in chapters VII and VIII.

(b) On and from the date of the notification under clause (a), the Adalat or Adalats concerned shall be divested of the powers to take cognizance of the offences and suits specified in such notification, and the criminal, civil or revenue courts concerned shall, notwithstanding anything in sections 67 and 81, become vested with those powers.

Members of
Panchayati
Adalat.

56. (1) Every Sabha in a circle shall elect from amongst its members as many persons (other than the Panches, the Naib-Sarpanch and the Sarpanch) as are determined for the Sabha area by the Government or the prescribed authority, of prescribed qualifications, permanently residing within its jurisdiction, to act as members of the Panchayati Adalat (to be called Niyaye Panches).

(2) All the Niyaye Panches in a circle shall form the Panchayati Adalat for the circle.

Election of
Niyaye Par-
dhan and
Mit Niyaye
Pardhan.

57. (1) All the Niyaye Panches in a circle shall at a meeting convened for the purpose elect annually from among themselves two persons who are able to record proceedings and to act as Niyaye Pardhan and Mit Niyaye Pardhan of the Adalat.

(2) Any dispute arising out of such election shall be referred to the Director or such other officer as may be appointed for the purpose by the Government whose decision thereon shall be final and shall not be liable to be questioned in any court or before any authority.

Oath of
Office.

58. Every Niyaye Panch shall before entering upon his office take oath of office as set out in Schedule B:

Provided that a person re-elected as Niyaye Panch need not take a fresh oath.

Term of
office.

59. The term of office of every Niyaye Panch shall be three years from the date of his election.

Resignation
and removal.

60. (1) The Niyaye Pardhan, or the Mit Niyaye Pardhan or any other Niyaye Panch may submit in writing the resignation of his office to the Director or such other officer as the Government may appoint in this behalf.

(2) A Niyaye Pardhan, or a Mit Niyaye Pardhan or any other Niyaye Panch may be removed from his office, subject to the provisions hereinafter contained in this chapter, at any time by the Director or such other officer as the Government may appoint in this behalf.

(3) A person removed under sub-section (2) shall not be entitled to re-election as a Niyaye Panch for a period of five years from the date of his removal.

Casual va-
cancy.

61. Any casual vacancy in the Adalat shall be filled by a fresh election and the person elected in any such vacancy shall hold office only for the period as the person in whose place he is elected would have been entitled to hold office if the vacancy had not occurred.

62. (1) Notwithstanding anything contained in any other Institution of cases.
enactment, every suit, complaint or application instituted or made under this Act shall be instituted or made before the Niyaye Pardhan, or in his absence, before the Mit Niyaye Pardhan of the Adalat of the circle in which—

- (a) in case of a suit, the defendant or any of the defendants ordinarily resides or carries on business at the time of the institution of the suit irrespective of the place where the cause of action arose;
- (b) in case of a complaint, the offence is committed.

63. (1) A majority of the members of the Adalat shall form a quorum. Quorum and decision at meetings.

(2) The decisions of the majority at any meeting shall be binding in all matters and when the voting is equal, the Chairman shall have an additional vote.

64. The Niyaye Pardhan shall be responsible for the maintenance and custody of the record and cash in the manner prescribed. Custody of record and cash.

CHAPTER VII

CRIMINAL JUDICIAL FUNCTIONS

65. (1) An Adalat shall have jurisdiction to try— Criminal powers of Adalats.

- (a) in case of Adalat Class I, any of the offences specified in Schedules C and D;
- (b) in case of Adalat Class II, any of the offences specified in Schedule C;
- (c) (i) any other offence not being an offence punishable with imprisonment for more than two years, or
- (ii) an offence under section 379 or 411 of the Indian Penal Code where the value of the stolen property does not exceed rupees two hundred and fifty which the Government may from time to time by notification declare to be triable by an Adalat or class of Adalats;
- (d) any abetment of or attempt to commit any offence referred to in clause (a) or clause (b) or clause (c), when such offence, abetment or attempt has been committed within the jurisdiction of the Adalat;
- (e) any case transferred to it from another Adalat under sub-section (3) of section 67.

(2) Nothing contained in any notification made under sub-section (1) shall be construed to empower any Adalat to try any person liable to enhance punishment under section 75 of the Indian Penal Code.

(3) For the purpose of determining whether an offence falls within the jurisdiction of the Adalat the provisions of sections 179 to 182 of the Code of Criminal Procedure shall apply.

(4) An Adalat shall be deemed to be a criminal court when trying cases under this Chapter.

Security for
keeping the
peace.

66. (1) Whenever the Niyaye Pardhan or in his absence the Mit Niyaye Pardhan has reason to apprehend that any person within the jurisdiction of the Adalat is likely to commit a breach of the peace or disturb public tranquillity he may, by order in writing setting forth the substance of the information or the facts in his personal knowledge, require such person to show cause why he should not be ordered to execute a bond with or without sureties for an amount not exceeding rupees two hundred and fifty for keeping the peace for a period not exceeding one year.

(2) When two or more persons have been associated together in the matter under enquiry they may be dealt with in the same or separate enquiries as the Adalat deems fit.

(3) When any person appears or is brought before the Adalat in compliance with or in execution of a summons or warrant, the Adalat shall proceed to enquire into the truth of the information on which action has been taken and to take such further evidence as may be necessary.

(4) If, upon such enquiry the Adalat is satisfied that it is necessary for keeping the peace that the person in respect of whom the enquiry is made should execute a bond with or without sureties, the Adalat shall make an order accordingly:

Provided that when the person in respect of whom the enquiry is made is a minor, the bond shall be executed by his sureties.

(5) If upon such enquiry the Adalat is satisfied that it is not necessary for keeping the peace that the person in respect of whom the enquiry is made should execute a bond, the Adalat shall make an entry on the record to that effect and shall discharge him.

(6) Nothing contained in this section shall affect the powers of a magistrate to take security for keeping the peace under section 107 of the Code of Criminal Procedure.

Transfer of
cases.

67. (1) Any magistrate before whom a complaint or report by the police of any offence triable by any Adalat is lodged shall transfer the proceedings to the Adalat concerned.

(2) No magistrate shall upon his own knowledge or suspicion take cognizance of any offence which is triable by an Adalat after such Adalat has been constituted.

(3) A District Magistrate or any other magistrate of the first class specially empowered by the Government in this behalf may for reasons to be recorded in writing transfer any case or proceeding from one Adalat to another within his jurisdiction.

Exclusion of
certain cases.

68. (1) No Adalat shall take cognizance of any offence in which either the complainant or the accused is a public servant serving in the district wherein a Sabha area is situated and the offence relates to any act done in the discharge of his official duty.

(2) When information relating to the commission of a cognizable offence triable by an Adalat has been given to an officer-in-charge of a police station, he shall send a copy of the first information report to the Adalat competent to try such an offence and such Adalat shall not proceed to try any complaint relating to the fact stated in that report nor shall it issue any summons in the matter until the officer has intimated in writing that the investigation has been concluded. Such officer shall send the result of his investigation to the Adalat.

(3) No criminal case shall be heard by any Adalat when a criminal case on substantially the same facts against the same person has been heard and finally decided by a competent court or an Adalat.

69. No Adalat shall take cognizance of any offence if the accused—

- (a) has been previously convicted of an offence with imprisonment of either description for a term of three years or more, or
- (b) has been previously fined for theft by any Adalat, or
- (c) is registered as a member of a criminal tribe, under section 3 of the Patiala State Criminal Tribes Ordinance, 1974, or
- (d) has been bound over to be of good behaviour under section 109 or 110 of the Code of Criminal Procedure, 1898, or
- (e) in a case falling under the Patiala Gambling Act, 1991, has been previously convicted for gambling.

Certain persons not to be tried by the Panchayat.

70. (1) Any person who wishes to institute a criminal case before an Adalat shall make a complaint orally or in writing to the Niyaye Pardhan or in his absence to the Mit Niyaye Pardhan and shall at the same time pay a fee of one rupee:

Institution of criminal cases.

Provided that if the court fee stamp is not available at the place where the Adalat ordinarily sits, the person before whom the complaint is made shall accept an equivalent amount in cash.

(2) If the complaint is made orally, the person authorised to receive the complaint under sub-section (1), shall record such particulars as may be prescribed.

71. (1) The Adalat may, after examining the complaint and further enquiry, if any, either dismiss the complaint or summon the accused.

Action.

(2) If the complainant fails to appear on the day fixed for hearing, or if in the opinion of the Adalat he shows negligence in prosecuting the case, the Adalat may dismiss the case and such order shall, subject to the provisions of sub-section (3), operate as an acquittal.

(3) If the complainant satisfies the Adalat that his absence was due to some unavoidable cause and that he could not before the hearing inform the Adalat thereof, the Adalat may revive the proceedings:

Provided that no such order of dismissal shall be set aside without a notice to the accused, if it has been passed after his appearance before the Adalat.

Issue of warrants in lieu of summons.

72. If an accused or any other person on whom a summons has been served fails to appear, or evades the service of summons, the Adalat may after recording its reasons in writing, issue a bailable warrant against him for a sum not exceeding rupees two hundred and fifty and in case of his non-appearance take action under sections 87 and 88 of the Code of Criminal Procedure, 1898.

Prompt disposal of cases.

73. The Adalat shall if possible try the case and give its decision on the day on which the accused appears before it, otherwise it shall require him to execute a bond with or without sureties for a sum not exceeding rupees two hundred and fifty to appear before it on any subsequent day or days to which the trial may be adjourned.

(2) On his failure to execute the bond the Adalat may send him in custody to the nearest magistrate and shall inform the magistrate of the date fixed for the next hearing, who shall remand the accused to the judicial lock-up with an order for his production before the Adalat on the date fixed:

Provided that if he at any time executes the required bond he shall be released.

(3) The amount of such or any other bond, if forfeited, shall be recoverable as if it were a fine imposed by the Adalat.

Punishment.

74. (1) (a) The Adalat class I may on conviction sentence the accused to a fine not exceeding rupees two hundred or double the value of the damage or loss caused, by the act of the accused, whichever is greater.

(b) The Adalat class II may on conviction sentence the accused to a fine not exceeding one hundred rupees or double the value of the damage or loss caused, by the act of the accused, whichever is greater:

Provided that in no case under clause (a) or (b) the amount of fine imposed shall exceed the maximum fine prescribed by law for that offence.

(2) Instead of sentencing him to any punishment the Adalat may—

(a) release him after due admonition if it is of the opinion that the accused sincerely repents his act; or

(b) require him to execute within such time as the Adalat may fix a bond, with or without sureties, of an amount not exceeding rupees two hundred, binding himself that he will not commit any offence;

(c) where in its opinion the accused is under eighteen years of age, require his father or his guardian to execute, within such time as it may fix, a bond, with or without sureties, of an amount not exceeding rupees two hundred, binding himself to prevent such offender from committing any offence for a period not exceeding twelve months.

(3) The amount of any bond taken under clause (b) or (c) of sub-section (2), if forfeited, shall be recoverable as if it were a fine imposed by the Adalat and if the accused or his father or guardian, as the case may be, fails to execute such a bond within the time fixed, the accused shall be punishable with fine.

(4) Where a fine is imposed or a bond is forfeited by the Adalat and such amount is not paid on demand, it shall be recoverable by the Adalat in the manner provided in section 386 of the Code of Criminal Procedure, 1898.

(5) If any difficulty arises in recovering the fine or the sum in respect of a bond, the Adalat may record an order declaring the amount to be recovered and that it has not been paid, and forward the same to the nearest magistrate who shall proceed to execute it as if it were an order passed by himself and shall also sentence the accused to imprisonment in default of payment of the aforementioned fine or sum.

75. (1) If a fine is imposed the Adalat may order the whole or any portion of the fine recovered to be applied— Compensation.

(a) in defraying expenses properly incurred in the case by the complainant;

(b) for compensating any material damage or loss caused by the offence committed.

(2) If the Adalat is satisfied that the case is false and frivolous or vexatious, it may for reasons to be recorded, direct compensation to such amount not exceeding rupees one hundred to be paid by complainant or informant to the accused.

76. No conviction under this Act shall be deemed to be a previous conviction for the purposes of section 75 of the Penal Code or section 562 or 565 of the Code of Criminal Procedure, 1898; nor shall it disqualify any person from exercising any electoral right or from being elected or appointed to or holding any office. Conviction by Adalat not to be regarded as previous conviction.

77. (1) Any person aggrieved by a final order passed under this Chapter by an Adalat may appeal to a magistrate of the first class within whose jurisdiction such Adalat is situate or such other officer as the Government may notify. Appeal against the orders of the Adalat, Limitation, etc.

(2) Such appeal shall be made in writing within a period of thirty days from the date of the order appealed against and shall be accompanied by a copy of such order.

(3) Such appeal shall bear a court-fee stamp of the value of one rupee.

(4) The magistrate or officer if satisfied that a failure of justice has occurred may after affording to the opposite party an opportunity of being heard, set aside or modify the order appealed against (whether of acquittal or conviction or compensation or forfeiture of bond or otherwise) and pass such order, including an order directing retrial of the case by the same or any other Adalat or competent court as he deems fit.

(5) The order of the magistrate or officer on appeal shall be final.

Enquiry in cases forwarded by Magistrate. **78.** A magistrate may direct an inquiry to be made under section 202 of the Code of Criminal Procedure, 1898, by the Adalat in any case in which the offence was committed within the territorial jurisdiction of such Adalat and the Adalat shall inquire into the case and submit its report to the said magistrate.

CHAPTER VIII

CIVIL AND REVENUE JUDICIAL FUNCTIONS

Powers.

79. (1) Notwithstanding anything contained in any other law within the limits of the circle for which it is established the Adalat shall have jurisdiction to try on petition the following classes of suits whether civil or revenue, namely :—

- (a) a suit for the recovery of movable property or the value thereof;
- (b) a suit for money due on contract;
- (c) a suit for goods due on contract or price thereof;
- (d) a suit for compensation for wrongfully taking or injuring movable property or standing crops;
- (e) a suit for damage caused by cattle trespass;
- (f) a suit for sums payable on account of village expenses;
- (g) a suit by a co-sharer in an estate or holding for a share of the profits thereof or for a settlement of accounts;
- (h) suit for the recovery of over-payments of rent or land revenue or of any other demands for which a suit lies in a Revenue Court under sub-section (3) of section 77 of the Punjab Tenancy Act, 1887;
- (i) a suit by a landlord for arrears of rent of the money equivalent of rent;
- (j) a suit by a landlord against any person in possession of land occupied without the consent of the landlord for payment of a sum in lieu of the use or occupation of that land under section 14 of the Punjab Tenancy Act, 1887;

when the amount of the debt, demand, compensation or claim—

- (i) in case of Adalat class I, does not exceed rupees five hundred in respect of civil suits and rupees two hundred in respect of revenue suits;

- (ii) in case of Adalat class II, does not exceed rupees two hundred in respect of civil suits and rupees one hundred in respect of revenue suits.

(2) The Adalat when trying such suits shall be deemed to be a civil or revenue court, as the case may be.

(3) Unless relinquished in part, the suit shall include the whole of the claim and no subsequent suit shall lie for any claim or a part thereof relinquished or committed.

(4) No suit shall lie before the Adalat unless the defendant or one of the defendants sought to be made liable for the claim at the time of the institution of the suit, resides or carries on business or personally works for gain or has within a year of the institution of the suit resided or carried on business or personally worked for gain, within the limits of its jurisdiction or the cause of the action has arisen wholly or in part within those limits.

(5) The Government may by notification withdraw from any Adalat all or any of the powers mentioned in this section or transfer any Adalat or class of Adalats from one class to another.

80. An Adalat shall have no jurisdiction to entertain and adjudicate upon any suit—

Incompetency of Adalat to entertain certain suits.

- (a) on a balance of a partnership account;
- (b) for a share or part of a share under an intestacy or for a legacy or part of a legacy under a will;
- (c) by or against the Government, or the Central Government or any other State Government or a local authority or a public servant for acts done in his official capacity or where in the opinion of the Adalat any of them is a necessary party;
- (d) against an insolvent for claims pertaining to the period prior to the admission of his insolvency petition;
- (e) in which the matter substantially in issue is pending for decision in, or has been heard and finally decided by a court of competent jurisdiction in a former suit between the same parties or those under whom they claim.

81. (1) Any court before which a suit triable by an Adalat is instituted shall transfer the same to the Adalat concerned.

Transfer of cases.

(2) The District Judge or Collector, as the case may be, or any other officer authorised by Government in this behalf may for reasons to be recorded in writing transfer any civil or revenue case from one Adalat to another located within his jurisdiction.

82. The law of limitation for the time being in force shall apply to suits brought before the Adalat.

Limitation and dismissal of time barred suit.

(2) Any time spent on proceedings before an Adalat to which the provisions of sections 84, 92 and 93 are applicable shall be excluded from any period of limitation prescribed by law for suits in other courts.

(3) Every suit instituted before an Adalat after the expiry of the period of limitation prescribed therefor shall be dismissed notwithstanding that the plea of limitation has not been set up in defence.

Institution of suit:

83. (1) Any person who wishes to institute a suit or file an application before an Adalat shall present a plaint or application in writing to the Niyaye Pardhan or in his absence to the Mit Niyaye Pardhan and shall at the same time pay the fees prescribed in Schedule E:

Provided that if court fee stamp is not available at the place where the Adalat ordinarily sits, the person receiving the plaint shall accept an equivalent amount in cash.

(2) Any plaint so presented shall be entered in a register of suits, to be maintained by the Niyaye Pardhan or, in his absence, by the Mit Niyaye Pardhan in such form as may be prescribed.

Wrong institution.

84. If at any time it appears to the Adalat that it has no jurisdiction to try a suit, it shall direct the petitioner by order in writing to file his suit in the proper court.

Summary dismissal.

85. If from the plaint or the examination of the plaintiff the Adalat is of opinion that the plaint discloses no cause of action or that it is vexatious or frivolous or barred by limitation, it shall dismiss the suit by order in writing.

Necessary parties.

86. (1) The Adalat shall add as a party to a suit any person whose presence as such it considers necessary for a proper decision thereof, and shall enter the name of such party in the register of suits, and the suit shall be tried as between the parties whose names are entered in the said register:

Provided that a notice shall be given to the person aforesaid and he shall be given an opportunity of being heard before he is so added as a party.

(2) In any case where a new party is added under subsection (1) he may require the trial of the suit to begin *de novo*.

(3) If in any suit a plaintiff or defendant dies before it has been finally decided and the right to sue survives, the suit shall continue at the instance of or against the legal representatives of the deceased provided the application in this behalf has been presented to the Adalat within thirty days of the death or within such further period as the Adalat may for sufficient cause allow.

Summons.

87. If a suit is not dismissed under section 85, the Adalat shall by summons require the defendant or defendants to appear before it and answer the plaint.

88. (1) If the plaintiff fails to appear on the date fixed for hearing, or, if in the opinion of the Adalat, he is negligent in the prosecution of his suit, the Adalat may dismiss the suit unless the defendant admits all or any part of the claim when it shall be accordingly decreed. Dismissal in default and restoration.

(2) The Adalat shall restore a suit dismissed for failure to appear if, within fifteen days from the date of such dismissal, or such further period which for sufficient cause the Adalat may allow, the plaintiff satisfies the Adalat that he was by any sufficient cause prevented from appearing; but no order of dismissal shall be set aside without appearance before the Adalat.

89. (1) If the defendant fails to appear and the Adalat is satisfied that he has received notice of the date fixed for hearing or that he is intentionally evading service, the Adalat may proceed *ex parte*. *Ex parte decision.*

(2) The defendant against whom a suit has been decided *ex parte* may, within thirty days from the date of executing any process for enforcement of the decision or within such further period as the Adalat may for sufficient cause allow, apply in writing to the Adalat to set aside the decision; and the Adalat, if satisfied that the defendant did not receive due notice of the hearing and was not intentionally evading service of summons, or was by any sufficient cause prevented from appearing, shall by order set aside the said decision and appoint a day for proceeding with the suit:

Provided that no such order shall be passed without notice to the opposite party.

90. (1) At the conclusion of the trial, the Adalat may dismiss the suit or pass a decree, with or without costs of the suit, in such form as may be prescribed, and shall enter particulars of the decision in the register of suits. Final decision and execution thereof.

(2) If any payment is made or any property made over before the Adalat in satisfaction of a decree, it shall enter the payment or making over as aforesaid in the register of suits.

(3) A decree passed by an Adalat shall be executed by it in such manner as may be prescribed.

(4) If any difficulty arises in executing a decree, the Adalat may with its report forward the decree to the civil or revenue court having jurisdiction, and such court shall thereupon proceed to execute the decree as if it were a decree passed by the court.

91. (1) (a) In the case of a civil suit, a subordinate judge, and in the case of a revenue suit, an Assistant Commissioner, within whose jurisdiction the Adalat is located may, in appeal preferred by the party aggrieved, after calling for the record of the case and affording the opposite party an opportunity of being heard, set aside or modify any decree or order made by the Adalat in a suit or direct a Appeal.

retrial of the suit by the same or any other Adalat or competent court if he is satisfied that there has been a failure of justice.

(b) A fee of two rupees shall be paid on every such appeal.

(c) Such appeal shall be made in writing within a period of thirty days from the date of the decree or order.

(2) The decision of the subordinate judge or, as the case may be, the Assistant Commissioner on appeal shall be final.

CHAPTER IX

GENERAL PROVISIONS APPLICABLE TO JUDICIAL PROCEEDINGS

Report to District Magistrate, etc., if Adalat is incompetent to pass adequate sentence.

92. (1) If at any time it appears to the Adalat—

- (a) that it has no jurisdiction to try any case before it, or
- (b) that in any case the offence is one for which the Adalat is not competent to pass an adequate sentence, or
- (c) that the case is of such complexity that it should not be tried by it,

it shall send the case with its report to the District Magistrate or any other magistrate appointed in this behalf by the Government.

(2) On receipt of a case under sub-section (1), the District Magistrate or, as the case may be, the magistrate as aforesaid shall transfer the case for trial to any magistrate who is competent to dispose of the same.

Report to District Judge etc. on ground of incompetency of complexity.

93. (1) If at any time it appears to an Adalat—

- (a) that it has no jurisdiction to try any suit before it, or
- (b) that a suit is of such a nature or of such complexity that it should not be tried by it,

it shall send the case with its report to the District Judge in case of a civil suit and to the Collector in case of a revenue suit.

(2) On receipt of a case under sub-section (1), the District Judge or the Collector, as the case may be, shall transfer the same for trial to any competent court.

Transfer application.

94. (1) If in any case or suit before an Adalat any party intimates at any stage before the announcement of the final order or decree that he intends to make an application under this section for the transfer of the case or suit, the Adalat shall upon his executing, if so required, a bond with or without securities of an amount not exceeding rupees fifty that he will make such application within a reasonable time to be fixed by the Adalat, adjourn the case or suit for such a period as will afford sufficient time for the application to be made and decided:

Provided that nothing herein contained shall require the Adalat to adjourn the case or suit upon a second or subsequent intimation from the same party.

(2) If the application is not made within the time allowed, the amount of such bond shall be forfeited and shall be recoverable as if it were a fine imposed by the Adalat.

95. The District Magistrate, the District Judge or Collector, ^{Stay of} as the case may be, may on an application for transfer— ^{proceedings.}

- (a) order the Adalat to stay the proceedings in the case or suit, and on receipt of such order the Adalat shall so stay the proceedings;
- (b) call for the record of the case and an explanation of the Adalat and after affording the opposite party an opportunity of being heard and taking the explanation into consideration, transfer or refuse to transfer the case or suit for trial to any other Adalat.

96. (1) The provisions of the Code of Criminal Procedure, 1898, the Code of Civil Procedure, 1908, and of the Indian Evidence Act, 1872, shall not apply to proceedings before Adalats save to the extent mentioned in this Act or as may be prescribed. ^{General procedure not to apply.}

(2) The Adalat shall ascertain the facts of each case or suit by all legitimate means in its power and after receiving such evidence as the parties may adduce and after taking such further evidence as it may deem necessary, pass such order, sentence or decree as is just and equitable.

97. (1) No member of an Adalat shall take part in the adjudication of any case, suit or proceeding to which he or his near relation, employer, employee or partner in business, is a party or in which any of them is personally interested. ^{Bar on grounds of personal interest.}

(2) If by reason of disqualification under sub-section (1) the quorum becomes incomplete, the Adalat shall report the case or the suit to the District Magistrate or the District Judge or the Collector having jurisdiction, who shall transfer the same for trial to any other Adalat or competent court.

Explanation.—Near relation means any relation specified in clause (b) of section 39.

98. Notwithstanding anything contained in the law relating to legal practitioners for the time being in force, no legal practitioner shall be permitted to appear, plead or act for any party before any Adalat. ^{Bar to legal practitioners.}

99. Any party with the consent of the Adalat or a woman who is a party to any proceedings before the Adalat may appear through any agent authorised in writing in that behalf by such party or woman: ^{Appearance by agent.}

Provided that such agent shall not be a legal practitioner or any person employed as a clerk to a legal practitioner or a petition writer or tout.

100. Sections 8 to 11 of the Patiala Oaths Act, 2000, shall apply to proceedings before an Adalat. ^{Decision on oath.}

Special Jurisdiction by agreement of parties. **101.** (1) Notwithstanding anything contained in this Act or in any other law for the time being in force, an Adalat may—

- (a) in accordance with any settlement or compromise arrived at between the parties, or oath agreed upon by the parties, decide any civil or revenue dispute arising within its local area and not pending in any court;
- (b) allow a criminal case before it to be compounded.

(2) No appeal shall lie from a decree or other passed by the Adalat under sub-section (1).

Concurrent Jurisdiction and removal of doubt. **102.** Where a suit, proceeding or criminal case is maintainable in more than one Adalat the plaintiff or the applicant or the complainant, as the case may be, may bring the suit, proceeding or case in any one of such Adalats. Any dispute regarding jurisdiction shall be decided by—

- (a) the District Judge in case of a civil suit;
- (b) the Collector in case of a revenue suit;
- (c) the District Magistrate in respect of a criminal case.

Attendance of witnesses and power to fine in default. **103.** (1) The Adalat may by summons send for any person to appear and give evidence or to produce or cause the production of any document:

Provided that—

- (a) no person who is exempted from personal appearance in court under sub-section (1) of section 133 of the Code of Civil Procedure, 1908, shall be required to appear in person before an Adalat in a suit;
- (b) the Adalat may refuse to summon a witness or to enforce a summons already issued against a witness, when in its opinion the attendance of the witness cannot be procured without an amount of delay, expense or inconvenience which in the circumstances would be unreasonable;
- (c) the Adalat shall not require any person living beyond its jurisdiction to give evidence or to produce a document unless such a sum of money as appears to be sufficient to defray his reasonable expenses is deposited with the Adalat;
- (d) no woman shall be compelled to appear in person before any Adalat and a woman who refuses to appear as aforesaid may be examined on commission in the manner prescribed;
- (e) if a document is produced in obedience to a summons issued under this section the Adalat shall cause the document to be copied, attest the copy after comparing with the original and return the document to the person producing the same.

(2) If any person, whom an Adalat summons by written order to appear or give evidence or to produce any document before it, wilfully fails to obey such summons, the Adalat may take cognizance of such disobedience and after giving such person an opportunity to explain may on conviction sentence him to a fine not exceeding twenty-five rupees.

104. (1) Every summons issued by the Adalat shall be Summons drawn up in such form and shall be signed or sealed in such and its service. manner as may be prescribed.

(2) When the person on whom a summons is to be served resides within its jurisdiction, such summons shall ordinarily be served by one of the chaukidars of the circle and in his absence by any other person willing to do so. An Adalat may also effect such service through the Panchayat concerned.

(3) If at the time of the issue of the summons the accused or the defendant resides outside the circle the Adalat may forward the summons to the Adalat within whose jurisdiction he so resides which shall cause it to be served as if it were a summons issued by itself.

105. The Adalat may when imposing a fine or ordering Instalments. the payment of a sum of money or the delivery of any movable property, direct that the money be paid or the movable property be delivered by instalments.

106. (1) An Adalat shall not be competent to review any No power of sentence, decree or final order passed by it (except *ex parte* review. decrees or orders) and subject to the provisions of sections 77 and 91 no sentence, decree or order passed by an Adalat shall be subject to appeal or revision by any other court or authority.

(2) The provisions of sections 10 and 11 of the Code of Civil Procedure, 1908, and section 403 of the Code of Criminal Procedure, 1898, shall apply to all civil, revenue and criminal proceedings before an Adalat.

107. Any sum realized by an Adalat by way of fees or Custody of fines shall be kept in its custody in such manner as may be money. prescribed.

108. (1) The provisions of sections 480 to 482 of the Code Contempt of of Criminal Procedure, 1898, shall apply to proceedings court and before an Adalat: application of certain other provisions.

Provided that the fine imposed for the contempt of court shall not exceed fifty rupees.

(2) The provisions of sections 87, 88, 512, 517 and 522 of the Code of Criminal Procedure, 1898, shall apply to criminal proceedings before an Adalat:

109. The decision of an Adalat on the question of title, Effect of de-legal character, contract or obligation shall not bind the cision by parties except in respect of the suit in which such matter is Adalat on title, etc. decided.

Execution of
decrees by
another
Adalat.

110. If the defendant's property is situated outside the jurisdiction of the Adalat passing such decree or order, it may transfer the decree or order for execution in the prescribed manner to the Adalat within whose jurisdiction the property may be situated, and if there be no such Adalat then to the court of the subordinate judge or revenue court within whose jurisdiction it may be situated.

CHAPTER X

TAXES AND FINANCES

Taxes to be
levied by the
panchayats.

111. (1) Subject to any general or special order which the Government may from time to time make in this behalf and to the rules made under this Act, every Panchayat shall levy—

- (a) a tax on persons exercising any profession, art or calling (other than agricultural) or carrying on any trade or business in the Sabha area;
- (b) a tax on any person on the birth of his male child;
- (c) a tax on the marriage of a male person;
- (d) a labour tax involving the rendering of manual labour in the Sabha area by all able-bodied males between the prescribed age limits for a prescribed number of units of labour :

Provided that a person assessed to labour tax may, instead of rendering manual labour, deposit with the Panchayat within two months of the commencement of the year for which the tax is assessed a cash payment equal in value to double the wages of labour to be calculated in accordance with the rate of wages prevailing in the village as determined by the Panchayat;

- (e) if so authorised by the Government a duty on transfer of property in the form of a surcharge on the duty imposed by the Indian Stamp Act, 1899, on instruments of sale, gift and mortgage with possession of immovable property situated in the Sabha area at such rate as may be fixed by the Government not exceeding two per centum on, as the case may be, the amount of the consideration, the value of the property or the amount secured by the mortgagee, as set forth in the instrument;
- (f) any other tax which the Legislature of the State has power to impose, if so authorised by the Government:

Provided that the Government may at any time by notified order withdraw the authorization under clauses (e) and (f) whereupon the duty or tax shall cease to be levied.

(2) A profession-tax leviable on a firm, association or joint Hindu family may be levied on any adult member of the firm, association or family.

(3) If a company or person employs a servant or agent who represents it or him for the purpose of transacting business in any Sabha area such company or person shall be

deemed to transact business in that area and such servant or agent shall be liable for the tax in respect of the business of such company or person whether or not such servant or agent has power to make binding contract on behalf of such company or person.

(4) On the introduction of duty specified in clause (e), sub-section (1)—

(a) section 27 of the aforementioned Stamp Act shall be read as if it specifically required the particulars to be set forth separately in respect of the property situated in the Sabha area and outside such area;

(b) section 64 of the said Act shall be read as if it referred to the Panchayat as well as the Government.

(5) The Government may make rules for regulating the rate of duty, tax or fee, its collection, and payment to the Panchayat and deduction therefrom of expenses incurred by the Government in connection with the same.

112. Subject to any general or special order which the Government may from time to time make in this behalf and to the rules, any Panchayat may impose in the Sabha area— taxes which a Panchayat may impose.

(a) a vehicle tax;

(b) an animal tax;

(c) a tax on pack-animals;

(d) market fees for the right to expose goods for sale in markets.

Explanation.—In clause (a), “vehicle” means a conveyance suitable for use on roads and includes any kind of carriage, cart, wagon, bicycle, tricycle, rickshaw and palanquin, but does not include a motor vehicle as defined in the Patiala Motor Vehicles Act, 1998.

113. (1) The Government shall every year assign to every Panchayat a portion of the land revenue not being less than ten per centum of the total annual land revenue realised within the limits of the Sabha area. Assignment of a portion of land revenue.

(2) The Government may, from time to time allot to the Panchayat such funds or sources of income as it may deem fit.

114. (1) Any Panchayat may, with the sanction of the Director, exempt any person or class of persons wholly or in part from the payment of any tax, duty or fee. Power to exempt from taxes and write off irrecoverable amounts.

(2) Subject to the previous sanction of the Director, a Panchayat may write off any tax, duty or fee or any other amount whatsoever due to it, whether under a contract or otherwise, or any sum payable in connection therewith, if in its opinion such tax, duty, fee, amount or sum is irrecoverable.

115. Any person evading the payment of any tax, duty, fee or other liability under this Act shall be punishable with a fine which may extend to rupees fifty or double the amount of the tax, duty, fee or liability, whichever is greater. Punishment for non-payment of taxes etc.

Sabha Fund. **116.** (1) There shall be a Sabha Fund and all moneys realised by the Panchayat shall form part of that Fund, and shall be applied by the Panchayat in accordance with the provisions of this Act.

(2) The following moneys shall be credited to the Sabha Fund—

- (a) all grants from Government or any local body;
- (b) all fines imposed by the Adalat to be allocated equally amongst the Sabhas in the circle;
- (c) all fines in respect of offences under this Act;
- (d) the balances and proceeds of all funds including malba which were or are being collected for the common purposes of the villages comprised in the Sabha area;
- (e) all donations;
- (f) all taxes, duties and fees imposed and realised under this Act;
- (g) the sale proceeds of all dust, dirt, dung or refuse including the dead bodies of animals, collected by the servants of the Panchayat, and the trees and other produce of the land vested in the Sabha;
- (h) the balance standing to the credit of any Panchayat constituted before the commencement of this Act.

(3) The expenses of the Panchayat shall be a charge on the Sabha Fund as also the expenses of the Adalats to be shared equally by the Sabhas in the circle.

Recovery of arrears. **117.** The Collector shall recover any sums due under this Act (other than sums due under a decree passed by an Adalat in exercise of its civil jurisdiction or due as fines imposed by that Adalat in exercise of its criminal jurisdiction) as if such sums are arrears of land revenue.

CHAPTER XI

CONTROL

Delegation of powers. **118.** (1) Government may, by notification, delegate all or any of its powers under this Act, other than the power to make rules, to a Commissioner or a Deputy Commissioner or the Director.

(2) The Director may, with the previous permission of the Government, delegate any of his powers (other than those delegated to him or specified in sub-section (3) of section 130 and sub-section (1) of section 123) to an officer not below the rank of District Panchayat Officer.

(3) The District Magistrate may delegate any of his powers to a Magistrate of the first class.

(4) The District Judge may delegate any of his powers to a Subordinate Judge of the first class.

(5) The Collector may delegate any of his powers to an Assistant Collector of the first grade.

119. A Sabha or a Panchayat shall at all reasonable times allow any person authorised by the Director to inspect its books, proceedings and records and to enter on and inspect any immovable property occupied by, or any of its work in progress, or any institution controlled by it.

Inspection
etc. of records
of Sabha.

120. (1) The Deputy Commissioner may by written order for reasons to be stated therein suspend the execution of any resolution or order of a Panchayat or prohibit the doing of any act which is about to be done or is being done in pursuance of or under cover of this Act.

Power to sus-
pend the
action of
Panchayat.

(2) The Deputy Commissioner shall forthwith send to the Commissioner a copy of the order with his report and with such explanation as the Panchayat may offer, and the Commissioner may thereupon confirm, modify or rescind the order.

121. (1) The Government may call for and examine the record of any proceedings of a Panchayat for the purposes of satisfying itself as to the legality or propriety of any order passed by the Panchayat and may pass such order as it may deem fit.

Government
may call for
proceedings.

(2) The Government may, at any time, call for and examine the record of any order made by the Commissioner under sub-section (2) of section 120 for the purposes of satisfying itself as to the propriety of such order and may pass such order as it may deem fit.

122. (1) If a Panchayat makes default in the performance of any duty or function the Director may fix a period for the performance thereof, and in case of non-performance within the period fixed appoint any person to perform the same with a direction that the expenses incurred in performance thereof shall be paid within a specified time by the Panchayat.

Default of
duties by
Panchayats

(2) On its failure to pay expenses referred to in sub-section (1) the Director may make an order directing the person having custody of the Sabha Fund to make the payment and such person shall comply with that order, and if he fails to comply with the order, the amount may be recovered from him.

123. (1) The Director may, and if so required by the Government shall—

Dissolution,
removal and
suspension.

(a) cause an enquiry to be held in respect of the affairs of Sabha, Panchayat or Adalat;

(b) dissolve any Panchayat or Adalat, or suspend or remove any member or officer thereof, if in his opinion such body or person has abused its or his position or has continuously failed to perform the duties imposed by or under this Act or any rule made thereunder, or its or his continuance is undesirable in the interest of the public:

Provided that where the Director takes action against a Panchayat or an Adalat or any member of an Adalat he shall obtain the previous approval of the Government.

(2) A person who has been removed under sub-section (1) may be disqualified for re-election for such period not exceeding five years as the Government may fix.

Abolition of Panchayat and consequence thereof.

124. (1) If in the opinion of the Government a Panchayat is incompetent to perform or persistently makes default in the performance of duties and functions imposed on it by or under this or any other Act or exceeds or abuses its powers or should there be any other reason which in the opinion of the Government is sufficient, the Government may, by notification abolish it.

(2) On the abolition of a Panchayat under sub-section (1)—

- (a) all members of the Panchayat shall from the date of the notification vacate their seats;
- (b) the funds and other property, if any, vested in the Panchayat shall be disposed of in such manner as Government may direct.

(3) Government may at any time re-establish a Panchayat so abolished.

Power to make rules

125. (1) The Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act and may provide that the breach of any such rule be punishable with a fine which may extend to fifty rupees.

(2) In particular and without prejudice to the generality of the foregoing power the Government may make rules:—

- (a) with reference to all matters in respect of which rules are expressly required or allowed by this Act to be made;
- (b) as to all matters relating to electoral rolls or elections, not expressly provided for in this Act, including deposits to be made by candidates standing for election and the conditions under which such deposits may be forfeited, and the conduct of inquiries and the decision of disputes relating to electoral rolls or elections;
- (c) regulating the filling of casual and permanent vacancies in a Panchayat or Adalat and the appointment, suspension and removal of Panches and members;
- (d) regulating the procedure of election, suspension or removal of the Sarpanch and Naib-Sarpanch, Niyaye Pardhan and Mit Niyaye Pardhan, and the settlement of election disputes;
- (e) regulating the functions and powers of the office bearers referred to in clause (c);
- (f) regulating the exercise by a Sabha, Panchayat or Adalat of any of its powers (except judicial powers) under this Act and in particular, its powers to sue and to acquire, hold or transfer property and to enter into contracts;

- (g) regulating the assessment and collection of taxes, duties and fees and appeals against assessments and the custody of the Sabha and Adalat Funds;
 - (h) regulating the custody, proper maintenance and manner of accounts, records and registers by a Panchayat and Adalat;
 - (i) regulating the manner in which the records, registers, accounts and other proceedings of the Panchayat or Adalat are to be inspected and audited;
 - (j) as to the form and contents of licences, permissions and notices granted or issued under this Act the manner of their issue or the method of their service, and the modification, suspension or cancellation thereof;
 - (k) regulating the mode of assembling the adult voters and recording their votes under section 29;
 - (l) regulating the time, place, language and conduct of meetings and adjourned meetings of Sabhas, Panchayats and Adalats;
 - (m) providing for the procedure of sub-committees appointed by Panchayats and the delegation of functions thereto;
 - (n) regulating the exemptions from non-judicial liabilities imposed under this Act;
 - (o) prescribing the manner of preparing annual budget of the Sabha;
 - (p) regulating the issue and service of processes, fees payable, scale of diet money for witnesses and penalties for refusal to accept or comply with the processes;
 - (q) as to the grant to the public of copies of any proceeding or record of the Panchayat, and the fees to be levied for the grant of such copies.
- (3) All rules made under this section shall be subject to the condition of previous publication.

CHAPTER XII

MISCELLANEOUS

126. The Accounts of every Sabha and Panchayat and Audit. Adalat shall be audited every year in the manner prescribed.

127. (1) (a) Every Panchayat shall prepare and lay Budget and before the Sawani meeting of the Sabha a budget estimate of annual report its income and expenditure for the year commencing on the 1st day of Baisakh next following by Panchayat.

(b) Every Panchayat shall prepare and lay before the Hari meeting of the Sabha its report including the account of its actual and expected receipts and expenditure for the year ending on the last day of Chet last preceding such meeting.

(2) The Sabha may either pass the budget or refer it back to the Panchayat for reconsideration with such directions as it may deem fit and may likewise pass a recommendatory resolution in respect of the report or of any other matter.

(3) If the budget is referred to the Panchayat for reconsideration, the Sarpanch shall call an extraordinary meeting of the Sabha to be held within a fortnight of the said Sawani meeting and the Panchayat shall at the said meeting resubmit the budget with such modifications as may be necessary in the light of the directions of the Sabha and the Sabha shall pass the budget.

(4) Subject to rules made in this behalf, the budget shall take effect after it has been accorded approval by the Director, and a Panchayat may, with the like approval, appropriate any portion of the amount sanctioned under one head to another.

Member or servant of a Panchayat etc. to be a Public servant. **128.** Every member of a Panchayat or of an Adalat shall while performing the duties and functions under this Act be deemed to be a public servant.

Bar of legal proceedings. **129.** (1) No suit, prosecution or other legal proceeding shall lie against any member or servant of a Panchayat or of an Adalat for anything which is in good faith done, or intended to be done, under this Act or the rules made thereunder.

(2) The provisions of the Patiala State Judicial Officers, Protection Act, 1996, shall apply to the members of an Adalat.

Liability of members and servants. **130.** (1) Every member or servant of a Panchayat or Adalat shall be liable to the respective body to account for the loss, waste or misapplication of any money or other property belonging to that body if such loss, waste or misapplication is the result of his neglect or misconduct as a member or servant.

(2) A District Panchayat Officer may on the application of the Panchayat, Sabha or Adalat, or any member thereof or otherwise and after affording the member or servant concerned an opportunity to explain, summarily assess by order in writing the amount due by him on account of such loss, waste or misapplication.

(3) Any person aggrieved by an order made under sub-section (2) may within one month of the date of such order, appeal against such order to the Director who may, after affording the parties an opportunity of being heard, set aside or modify the order appealed against.

(4) The Director may on appeal under sub-section (3) suspend the execution of the order upon deposit with him of the amount due from the appellant.

(5) Subject to the decision of the Director under sub-section (3) the order of the District Panchayat Officer under sub-section (2) shall be final and executable as a decree of the Adalat.

131. Resignation tendered by any member of a Panchayat or Adalat shall not take effect till it is accepted by the Director. Resignation when to take effect.

132. (1) The Government shall appoint a Director of Panchayat for the State and such staff as may be necessary. Appointment of Director etc. and expenses to be met from Government revenues.

(2) The salaries of the Director and such staff and expenses and their establishments and any other expenses incidental to the carrying into effect the provisions of this Act shall be a charge on the revenues of the State.

133. No suit or legal proceeding shall be instituted against any Sabha or Panchayat or any officer or servant thereof in respect of anything purporting to be done under this Act until the expiration of two months next after notice in writing stating the cause of action, the name and place of abode of the intending plaintiff and the relief which he claims, has been, in the case of any individual as aforesaid, delivered to him at his office or usual place of abode and the plaint shall contain a statement that such notice has been so delivered or left. Suits against Panchayats etc. and limitation.

134. Notwithstanding anything contained in this Act, an outgoing member or office holder of a Sabha, Panchayat or Adalat shall, unless the Government otherwise directs, continue in office until his successor enters upon the duties of his office. Continuance in office.

135. Whoever contravenes any provision of this Act shall, if no express provision is made by this Act for the punishment of such contravention, be punishable with fine which may extend to fifty rupees and when the breach is a continuing one with a further fine which may extend to rupee one for every day after the first during which the breach continues. Penalty where no express provision.

136. Whoever removes, displaces or makes any alteration in or otherwise interferes with any pavement, gutter or other material of a public street, or any fence, wall or post thereof, or a lamp post or a bracket, direction post, stand-post, hydrant or other such property of the Sabha without the permission in writing of the Panchayat or other lawful authority concerned shall be punishable with fine which may extend to fifty rupees. Penalty for tampering with Sabha property.

(2) If a person has been fined under sub-section (1), such person shall be liable to make good such damage in addition to the penalty, and the amount of the damage may be recovered from the offender as if it were a fine.

137. Every police officer shall give immediate information to the Panchayat of an offence coming to his knowledge which has been committed against this Act or any rule or bye-law made thereunder and shall aid and assist all members and servants of the Panchayat or Adalat in the exercise of their lawful authority. Duties of Police towards Panchayats.

Disputes
between
panchayats.

138. If any dispute arises between two or more Panchayats or between a Panchayat and any other local authority, it shall be referred to the prescribed authority whose decision on such reference shall be final and shall not be questioned in any court or before any authority.

Defect in
constitution
ect. not to
invalidate
acts or pro-
ceedings of
Panchayat or
Adalat.
Repeal.

139. No act done or proceeding taken by a Panchayat or Adalat shall be questioned merely on the ground of the existence of any vacancy in, or any defect in the constitution of, the Panchayat or Adalat.

140. (1) The Patiala Rural Panchayat Act, 2000, is hereby repealed:

Provided that any Panchayat established under the Act hereby repealed or any other Panchayat functioning under any other law shall, until Nagar Panchayat under section 11 or a Panchayat Adalat Class I under section 56 is established, be deemed to be such Nagar Panchayat or Panchayat Adalat under this Act.

(2) The provisions of Chapter V shall not apply to any complaint, suit or proceeding before any Panchayat which under sub-section (1) has been deemed to be a Nagar Panchayat or Panchayat Adalat.

SCHEDULE A

FORM OF OATH FOR PANCHES

(See section 12)

I, A. B., do swear in the name of God
solemnly affirm that I will bear true faith and allegiance to the constitution of India as by law established, that I will faithfully and conscientiously discharge my duties as a Panch and that I will do right to all manner of people in accordance with the Constitution and the law, without fear or favour, affection or illwill.

SCHEDULE B

FORM OF OATH FOR NIYAYE PANCHES

(See section 58)

I, A. B., do swear in the name of God
solemnly affirm that I will bear true faith and allegiance to the Constitution of India as by law established, that I will duly and faithfully and to the best of my ability, knowledge and judgment perform the duties of my office without fear or favour, affection or illwill and that I will uphold the Constitution and the laws.

SCHEDULE C

OFFENCES COGNIZABLE BY AN ADALAT CLASS I AND II

(See section 65)

Offence	Sections
(a) Under the Indian Penal Code, 1860 (XLV of 1860)—	
Absconding to avoid service of summons or other proceeding	172
Preventing the service or affixing of any summons, etc.	173
Non-attendance in obedience to an order from public servant	174
Committing affray	160
Offences relating to Weights and Measures mentioned in Chapter XIII	264—267
Negligently doing any act known to be likely to spread infection of any disease dangerous to life	269
Defiling the water of a public spring or reservoir	277
Danger of obstruction in public way or line of navigation	283
Dealing with fire or any combustible matter so as to endanger human life, etc., and dealing with any explosive substance	285—286
Omitting to guard against probable danger to human life from a building over which a person has right to pull down or repair	288
Negligent conduct with respect to any animal	289
Committing a public nuisance	290
Continuance of nuisance after injunction of discontinuance	291
Sale etc. of obscene books etc. and sale etc. of obscene objects to young persons.	292—293
Obscene songs	294
Voluntarily causing hurt on provocation	334
Wrongfully restraining any person	341
Assault or use of criminal force otherwise than on grave provocation	352
Assault or use of criminal force on grave and sudden provocation	358
Theft or dishonestly receiving or possessing stolen property where the value of the property stolen does not exceed Rs. 100 and the accused is named in the complaint: Provided that no Adalat shall take cognizance of any such complaint if the accused—	379 and 411
(i) has been previously convicted of an offence under Chapter XII or XVII of the Indian Penal Code punishable with imprisonment of either description for a term of three years or upwards; or	
(ii) has previously been fined for theft or receiving or possessing stolen property by any Panchayat; or	
(iii) is a registered member of a criminal tribe under section 3 of the Criminal Tribes Ordinance, Samvat 1974; or	
(iv) has been bound over to be of good behaviour in proceedings instituted under section 109 or 110 of the Code of Criminal Procedure, 1898; or	
(v) has had an order of restriction passed against him under the Restriction of Habitual Offenders Act, 1981 ;	

Offence	Sections
(vi) has been previously convicted for gambling, dishonest misappropriation .	403 Provided the amount of property involved does not exceed Rs. 100.
Mischief when the damage or loss caused does not exceed fifty rupees in value	426
Mischief by killing or maiming animal of the value of Rs. 10	428
Mischief by killing or maiming cattle, etc., of any value or any animal of the value of Rs. 50	429
Criminal trespass	447
House trespass	448
Uttering any word or making any gesture intended to insult the modesty of a woman	509
Misconduct in public by a drunken person	510
(b) Under the Patiala Vaccination Act, 1994 (I of 1994)— of Punishment offences.	19
(c) Under the Patiala Cattle Trespass Act, 1979 (I of 1979)— Forcibly opposing the seizure of cattle or rescuing the same	24
Causing damage to land or crops or public roads by pigs	26
(d) Under the Patiala Primary Education Act, 1983 (I of 1983)— Neglect by parents to send boy to school	13
Unlawful employment of boy	14
(e) Under the Northern India Canal and Drainage Act, 1873 (VIII of 1873) in force in the State-Offences specified in sub-section (4) of section 70	70
(f) Under the Patiala Juvenile Smoking Act, 1918 (VII of 1918)— Penalty for selling tobacco to children	3
(g) Under the Patiala Gambling Act, 1991 (I of 1991)— Penalty for owning or keeping or having charge of a gambling house	3
Penalty for being found in gambling house	4
Penalty on persons arrested for giving false names and addresses	7
(h) Under the Patiala Forest Act, 1999 (VII of 1999)— Acts prohibited in such (first class) forests	26
(i) Under this Act or under any rule or bye-law made thereunder . . . . .	..

SCHEDULE D

OFFENCE COGNIZABLE BY AN ADALAT CLASS I

Offence	Sections
(a) Under the Indian Penal Code, 1860 (XLV of 1860)—	
Intentional omission to give information of an offence by a person legally bound to inform	202
Negligently doing an act known to be likely to spread infection of any disease dangerous to life	270
Voluntarily causing hurt	323
Criminal breach of trust	406
Cheating and inducing delivery of property	420
Cheating	417
Insult intended to provoke a breach of the peace	504
Punishment for criminal intimidation, etc.	506

} Provided
the amount
or property
involved
does not ex-
ceed Rs.
100.

SCHEDULE E

TABLE OF FEES

(See section 83)

S. No.	Value of claim	Court fee to be levied
		Rs. A. P.
1. (a)	Rs. 50 or less	1 0 0
(b)	From Rs. 51 to Rs. 100	2 0 0
(c)	From Rs. 101 to Rs. 150	3 0 0
(d)	From Rs. 151 to Rs. 200	4 0 0
(e)	From Rs. 201 to Rs. 250	5 0 0
(f)	Above Rs. 250	10 0 0
2.	For applications to the Panchayat for execution of a decree granted by it	1 0 0
3.	Any other application	1 0 0

THE SAURASHTRA GRAM PANCHAYAT ACT, 1949*

Preamble. WHEREAS it is desirable that people of villages should learn to hold deliberations amongst themselves about matters pertaining to their own interest and then to manage their own affairs, and

WHEREAS it is desirable that they may take interest in other indigenous works of public utility and need and learn to give decisions in small cases relating to criminal and civil matters thereby contributing to the increase of usefulness of villages and bringing about in fitting manner the development thereof, and

WHEREAS it is desirable that they may learn to give all-round impetus to constructive activities conducive to amelioration of villages, and

WHEREAS, as a result, the Government of Village Panchayat in villages be carried on in an ideal manner—

The Raj Pramukh, in exercise of all the powers vested in him by section 9 of the Covenant and section 3 of the Supplementary Covenant is pleased to enact and promulgate the following Act.

CHAPTER I

COMMENCEMENT

Title. 1. This Act shall be called “The Saurashtra Gram Panchayat Act, 1949”.

Enforcement. 2. This act will come into force from the date which may be fixed by a Notification published in the *Saurashtra Government Gazette*.

Application. 3. This Act applies to the whole of the United State of Saurashtra.

Definitions . 4. Unless there is anything repugnant in the object or context in this Act,

(i) the word “village” includes the site of the village, the suburb and the site of the outskirts (Sim);

(ii) “Gram Panchayat” means a Panchayat established for the management of a village or a group of villages ;

* English translation of the Act supplied by the State Government.

- (iii) "village assembly" or "Gram Sabha" means an assembly of adult voters or electors residing in a village or group of villages marked out for Panchayat;
- (iv) "President" means a President of the Panchayat;
- (v) "Vice-President" means Vice-President of the Panchayat;
- (vi) "prescribed" means anything prescribed according to rules made under this Act;
- (vii) "penalty" means fine inflicted by Panchayat dealing out justice in exercise of criminal and executive powers vested in them by virtue of these rules.

CHAPTER II

ESTABLISHMENT AND CONSTITUTION OF PANCHAYAT

5. The jurisdiction of any Panchayat will extend upto the limits of the village concerned; but the Government has the power to make modifications therein or to amalgamate one or more villages or hamlets and to bring them under the jurisdiction of one village Panchayat.

6. If people intend to establish a Panchayat, it can be established in the following villages:—

Establishment of Panchayat.

- (i) In villages with a population of up to 2,000;
- (ii) In villages nominated by Government and having a population of over 2,000 and under 10,000.

7. In a village where people intend to establish a Panchayat, the following course should be carried out :—

- (i) All the adults of the said village should meet together and should pass a resolution asking for a Panchayat, and should elect a President and representatives in conformity with the regulations laid down for the Panchayats;
- (ii) The President and the representatives elected should, on behalf of the village, submit a request for a Panchayat before an officer appointed by the Government;
- (iii) The said officer, after inquiry into the manner of that resolution and election, shall submit his opinion to the Government and the Government on finding it in proper order, shall sanction it by a notification;
- (iv) On a Notification being published as above the Gram Panchayat of the said village shall be deemed as established;
- (v) The President and the representatives shall become the President and the members respectively of the Gram Panchayat established in this manner.

8. (i) The number of members of the Panchayats will be fixed by the Government in consideration of the proportion of the village population. But, in no Panchayat, shall the number of members, inclusive of President, be less than 5 or more than 15.

(ii) In every Panchayat women and Harijans will get reserved seats, to which the Government shall make appointments or it may declare them as unreserved.

Election.

9. Election for the Panchayat shall take place in conformity with the rules made by the Government.

Qualifications of voters or electors.

10. Any woman or man who has been residing in a village for at least six months and who is more than 21 years old shall be entitled to give vote in the election.

Decision regarding election.

11. In the event of any dispute or doubt, the Collector after holding such inquiry as he deems fit, shall give decision with regard to the giving of votes in such election or the qualifications of member or such other questions and such decision will be regarded as final.

Persons to be debarred from becoming members.

12. None of the persons described hereunder shall be eligible as a member of the Panchayat or shall continue to be a member thereof—

- (i) a person who has ceased to be residing in a village;
- (ii) a person who has been sentenced to imprisonment for a criminal offence relating to some undesirable moral lapse or who has been declared insolvent;
- (iii) a person who has been holding an office of profit under the management and jurisdiction of the Panchayat;
- (iv) a person who has an interest or concern, direct or indirect, in works under the control of the Panchayat;
- (v) a person who is a servant of the Government or of any local body.

Explanation.—The Patel or the Mukhia of the village shall not be subject to conditions under (iv) and (v).

Qualifications of the President and Vice-President.

13. The President of the Panchayat as also the Vice-President shall be a person who is able to read and write with ease.

Period for membership of the Panchayat.

14. The member of the Panchayat shall hold office for 3 years unless otherwise specified in the rules. But the Collector can extend the said period to an aggregate of 5 years.

Resignations of members.

15. The President can submit his resignation in writing to the Collector. The members and Vice-President can submit resignation of their offices to the President. Such resignations will come in force from the date of their sanction or acceptance.

Village Assembly.

16. (i) For every Village Panchayat, there shall be one Village Assembly.

(ii) Such Village Assembly will be composed of such men as are entitled to vote according to section 10.

(iii) The duties of Village Assembly shall be as under:—

- (a) To elect a President and other members of the Panchayat.
- (b) To hold deliberations about the management of the former budget year and the budgeted receipts and expenditure submitted by the Panchayat.
- (c) To discuss the programme and budget prepared by the Panchayat for the next budget year and to give such directions to the Panchayat in the matter thereof as are likely to satisfy all the needs of the village.
- (d) To carry out such other duties as may, from time to time, be ordered to be discharged by the Government.

17. Panchayat's sitting will be held at least once every Time of the month and sitting of Village Assembly will be held at least sitting. once every three months according to the standard fixed for the purpose.

CHAPTER III

EXECUTIVE POWERS AND DUTIES

18. The President and the Panchayat shall carry their Powers and work being responsible to the Government and the whole duties of village, and they will render due performance of duties Panchayats. described below according to the orders which may be made from time to time and which may be specially made by the Government and with due regard to provisions in the village fund, and they shall be responsible for those items :—

(i) In the sphere of collective life:—

- (a) Necessary arrangements for Chora and Thakar temple and such other village institutions.
- (b) Encouragement to social festivals :
- (c) Encouragement to religious discourses by Hardas Religious narrations and recitations of Man Bhatt, concerts of singers of religious hymns and dramatic representations accompanied by singing and music about mythological events.
- (d) Encouragement to folk songs, village dances, Garba and Garbi dances, etc.
- (e) Encouragement to competition in sports, excursion, picnics, etc.
- (f) Encouragement to rope dances, Ramlila, Jugglers and Bajania, feats.

(ii) In the sphere of preservation of morality:—

- (a) Prohibition of alcoholic drinks.
- (b) Giving up habits of bhang-drinking, ganja and charas smoking, opium eating, etc. •

- (c) Organising a campaign against the plantation of bhang, tobacco and ganja.
 - (d) Prohibition or controlling of gambling, gambling fairs with gambling as their features.
 - (e) Removal of centres of immorality and vices.
 - (f) Prohibition of trade relating to the selling of young women.
 - (g) Stoppage of bribery for immoral purposes and illegal gratification.
 - (h) Removal of untouchability.
- (iii) In the field of sanitation and health:—
- (a) Arrangement of supply of pure water sufficient for domestic use.
 - (b) Sweeping and cleaning the public roads, drainage-gutters, underground gutters, etc.
 - (c) Cleanliness in places of public use and frequency.
 - (d) Cleanliness of bunds, tanks and other reservoirs of water, except wells, channels and other courses of water meant for irrigation.
 - (e) Cleanliness of public latrines, urinals, manure ghills and such other places.
 - (f) Disposal of night-soil and manure.
 - (g) Remedies against contagious diseases and epidemics and causes injurious to health.
 - (h) Controls over hotels and shops of sellers of sweets.
 - (i) Rules calculated to introduce and maintain cleanliness in eatables and things and appliances used in their preparations.
 - (j) Provisions for burning ghats and burial grounds and their regulation.
 - (k) Improvement in filling up of disused wells, step-wells and ponds, pits, wells and ditches injurious to public health and sanitation.
 - (l) Provisions for holding fairs, weekly markets, etc., and regulations for maintaining cleanliness therein.
 - (m) Improvement of places detrimental to health and sanitation.
 - (n) Rules relating to keeping of pigs within the limits of the village proper.
 - (o) Provision of a separate plot of land outside the village proper for disposal of dead cattle and maintenance of cleanliness and control thereof.
 - (p) Arrangement of disposal of dead bodies of cattle and corpses.
 - (q) Control of dangerous avocations and customs or their discontinuance.
 - (r) Establishment and upkeep of maternity homes and centres of child welfare.

- (s) Setting apart places or grounds for sport and games and their management and supervision.
- (t) Establishment of gymnasium and wrestling grounds (*akhadas*) and their management and control.
- (u) Opening of public parks and their management and control.
- (v) Arrangements for providing medical relief.
- (w) Introduction and fostering of literature, cinema and such other measures conducive to the training of people in the direction of health and sanitation.
- (x) Arrangements for midwives and nurses, etc.
- (y) Arrangements for obtaining permission from the Government for imposing restrictions in continuance of tea hotels.
- (iv) In the sphere of education and culture :—
 - (a) Provisions for night schools and schools for adults.
 - (b) Establishment and conduct of *Balmandirs* and museums.
 - (c) Establishment, encouragement and maintenance of village libraries and reading rooms.
 - (d) Encouragement of Charni and ancient literature and legends and folk lores.
 - (e) Arrangement through meetings, etc., conducted in simple language and understandable by people on subjects such as History, Geography, Science, Political Economy, with a view to propagating knowledge and education among people.
 - (f) Propagation of simple, homely knowledge calculated to lead to preservation of individual health.
 - (g) Spreading of knowledge about duties to villages in general.
 - (h) Encouragement of activities likely to bring about physical development.
 - ¹[(i) Provision of free and primary education after prior sanction of Government and on condition that Government should pay half the cost of this item.]
- (v) In the sphere of public works:—
 - (a) Provisions, preservations and repairs of Choras offices, school, dispensary, public houses, public roads, drainage, gutters, cesspools, ghats, etc., and other structures placed under the management of the Village Panchayat.
 - (b) Arrangement for the primary needs of the village wells, water troughs, step-wells, ponds, parks, playgrounds, etc.
 - (c) Establishment, maintenance and repairs of bazars.
 - (d) Erection of houses for municipal workers of the Panchayat and their maintenance in good condition.

¹ Ins. by s. 1 of Act VI of 1951.

- (e) Arrangement of erection of fence or a wall for the protection of the village, and of maintenance and repairs thereof.
- (f) Provisions for houses for the rest and recreation of hard-worked and fatigued men and the maintenance and repairs thereof.
- (g) Provisions for public latrines, their maintenance and repairs.
- (h) Provisions for Dharamshalas, their maintenance and repairs.
- (i) Plantation and preservation of trees on roads, in markets and other public places.
- (j) Construction of godowns for public use and their lease on hire.
- (k) Planning for village improvement and development:
- (l) Supervision over and guarding the Governmental places of public use.
- (m) Encouragement for bund of water channels to stop the erosion of Sim land.
- (vi) In the sphere of protection and preservation of agricultural lands and forests :—
 - (a) Arrangement for plantation of trees and their preservation with a view to attracting rain-fall and arrangement for economic use of fuel.
 - (b) Arrangement for fertilization of soil such as reclamation and provision of boundary pillars and stoppage of soil erosion.
 - (c) Arrangement calculated to bring under cultivation fallow land capable of being turned into agricultural land.
 - (d) Arrangements for transformation of Kharabi Kharapat, etc., into agricultural and productive land.
 - (e) Arrangements for protection against sand storms and whirlwinds;
 - (f) Arrangement of water storage through rivers, brooks and tanks, etc.
 - (g) Arrangement for sinking new wells for repairing and digging the old ones and thus for increasing their utility.
 - (h) Arrangement for channels designed for irrigated crops and their care and repairs.
 - (i) Storage of village manure, its preservation and management particularly of cowdung, urine, stapple and pits for cowdungs and their development.
 - (j) Arrangement for ready-made manure such as oil cakes, etc., and encouragement for their use thereof.
 - (k) Provisions and arrangements for the appliances needed for agriculture.
 - (l) Improvement in the methods and manner of agriculture and training, propaganda, experiments and management appertaining thereto.

- (m) Storage, provisions and management of good seeds.
- (n) Precautions and preserving remedies against insects and germs injurious to and destructive of standing crops and against such cattle and wild beasts and such diseases.
- (o) Co-operative and collective farming.
- (p) Provisions for granary and management for good seeds, pits for storing grains, kothi and godowns.
- (q) Arrangement for opening agricultural banks and bazarrara and management thereof.
- (r) Efforts directed to ensure the drying up of green vegetables, roots and groundnuts.
- (s) Arrangement for sale of fruit and flowers, etc.
- (t) Storage of fodder and its management.
- (u) Arrangement, care and management of grass godowns and dry fuel.
- (v) Arrangement, care and management of hay stocks.
- (w) Aid and co-operation to Government in the work of agricultural protection and improvement.
- (x) Assistance to Government in their work for forest preservation.
- (y) Arrangements aimed at ensuring the use of carcasses and bones and manure.
- (z) Arrangements calculated to utilization of fallen or dead leaves of jungles as manure.
- (vii) In the sphere of breeding and protecting cattle:—
 - (a) Arrangement for and management of cow pans and bull pans and of dhan khunt.
 - (b) Arrangement for improvement of cattle and their breed and for general care of milch cattle.
 - (c) Propagation of knowledge calculated to lead to protection of cattle and regulations relating thereto.
 - (d) Protection and remedies against diseases of cattle.
 - (e) Provisions for pasture grounds, their development and care.
 - (f) Storage of hay obtained from grass lands as also arrangements for supply of fodder required to meet the needs of people and their management and preservation.
 - (g) Propaganda, provisions and regulations for economic use of green and dry fodder.
 - (h) Provisions for Saylo (Valleys containing green grass).
 - (i) Arrangement for supply of salt or rock salt required for the use of cattle.
 - (j) Arrangement for water trough of pure water for cattle.
 - (k) Arrangements for regularly built watering places for cattle.

- (l) Arrangements for fallows for cattle.
 - (m) Arrangements for foot-paths.
 - (n) Arrangement for emasculation.
 - (o) Arrangement for stray cattle.
 - (p) Rules for maintenance of Pinjarapole and aid to them.
 - (q) Encouragement to dairies.
- (viii) In the sphere of village industries :—
- (a) Encouragement to the industries required for the necessities of villages such as those of labourers, potters, carpenters, blacksmiths, Ghanchis, shoe-makers, oil-merchants, cotton-carders, shepherds, chamars, weavers and others.
 - (b) Encouragement to the plantation of cotton pods and to the weaving and production of Pankora and its dyeing and colouring.
 - (c) Encouragement to the manufacture of industries of cloth from the hair and wool of goats and sheep.
 - (d) Encouragement of tanneries.
 - (e) Encouragement to dairies.
 - (f) Encouragement to storage and sale of vegetation and herbs required for chemicals and medicines.
 - (g) Encouragement to the industrial business of stone quarries, lime makers, stone cutters and stone grinding mill makers.
 - (h) Encouragement of embroidery work of Ari, threads, lace making, beads fixing, small round beads of various types, small looking glass fixings and comb making and to craftsmanship thereof and arrangement for their sale.
 - (i) Encouragement to the work of bamboo makers who make bamboo mats, ordinary mats, curtains, baskets, round baskets, brooms, etc.
 - (j) Encouragement to the production of Bhindi, Kathi Kettki, and Chhaiya (different varieties of weeds) and encouragement to the industries appertaining thereto.
 - (k) Encouragement to the making of the basket, etc., from waste paper.
 - (l) Encouragement to the industries of grinding and thrashing for removal of husks, winnowing and arrangement for their propaganda.
 - (m) Supporting by encouragement the processes of churning curds, making whey, butter and ghee.
 - (n) Arrangement for the exhibition of village craftsmanship, village industries and arts and village products.

(ix) In the sphere of self-reliance:—

- (a) Planning of plantations of crops calculated to yield at least as much corn as is sufficient for the village population inclusive of cultivators and artisans.
- (b) Arrangements for the storage of produce of corn and for the sale thereof with due regard to the needs of the village population.
- (c) Arrangements for cotton plantations likely to yield as much yarn and cloth as would meet or suffice the requirements of the village people.
- (d) Arrangements for carding, spinning, weaving loom and dyeing of the cloth sufficient for the needs of village people.
- (e) Arrangement for supply of ghee, milk, oil, growing vegetable and fruits, etc., in consideration of demands and needs of the village people.
- (f) Arrangements for deliberations for questions relating to agriculture, houses and other necessities of local life and for resorting to self-reliance in those matters.
- (g) Arrangements for expansion of village industries and agriculture on co-operative basis.
- (h) Arrangements for advancing loans, purchase or sale of necessities of life and other things on co-operative basis.
- (i) Arrangements for grass, fodder, oilcakes or cotton seeds for the cattle with due regard to the number thereof.

(x) In the sphere of administration :—

- (a) Fixing up and arranging of the office of Panchayat.
- (b) Election and appointment of the secretary.
- (c) Inauguration of the office of the Panchayat as prescribed by the Government and management thereof.
- (d) Arrangement for payment of revenue dues as fixed by Government.
- (e) Preparation of the map of the village site and its preservation in the records.
- (f) Preparation of the site of the Sim and its preservation in the records.
- (g) Maintenance of census records of the village population and additions and improvements thereof from time to time according as the necessities arise.
- (h) Maintenance of registers of births, deaths, and marriages.
- (i) Maintenance of lists showing number and names of cultivators, artisans, merchants, craftshmen and other classes of the population.
- (j) Recommendations to the Government for improvement of the waste land, if there be any, of the village site and if there be none of that description recommendations for extension of the village site in view of the needs of village population.

- (k) Preliminary provisions for setting apart of land and pasture ground, etc., in consideration of the needs of village population and its allotment.
- (l) Fixing the rates of the village site and arrangement for the sale thereof in view of the needs of the owner of the site adjoining thereto and with an eye to the fetching of the highest possible selling price, and recommendation to the officer appointed for the purpose.
- (m) Recommendation to the officer appointed for the sale of land to the owner of the adjoining site at reasonable rate in view of his needs and recommendation to the officer concerned for fixture of the standard of rates in that matter.
- (n) Drawing up a summary of cuttings, waste land and altogether fallow land situated in the village site and maintenance of records thereof.
- (o) Preparations of registers containing full detail of watering places, erosions, rivers, brooks, smaller brooks, wells, ponds, step wells, reconstructed wells, pits and ditches, bridges, bunds, dharmashalas buildings under the ownership of the Panchayat and Government, Bazar, Choras and preservation and continued maintenance thereof.
- (p) Maintenance of list of houses situated in the village site and preservation thereof and ceaseless improvements and changes therein according as they take place.
- (p1) Maintenance and preservation of lists of unclaimed houses.
- (q) Maintenance and preservation of lists of places of public utility and charitable places and of houses under their ownership and collection of information regarding their use.
- (r) Listing of goods exported from and imported in the villages and careful arrangement of figures thereof and their preservation.
- (s) Maintenance and preservation of lists showing the cattle, milch and dry, of the village and introduction of modifications therein according as they take place.
- (t) Preparation of a list of thieves and robbers, suspects and gundas and its careful preservation.
- (u) Arrangements for maintenance of cattle pond register.
- (v) Entries about vaccination.
- (w) Records of the various activities of the Panchayat.
- (x) Appointments, confirmation and removal or dismissal and supervision of the servants of the Panchayat.

- (y) Supervision over public works carried on under the auspices of the Government or the Panchayat and submission of opinion and suggestions with regard to such works.
- (z) Arrangement for street lamps or lights for the public.
- (a1) Regulations of tea hotels, if there be no restriction thereof, and arrangement for issue of licences for them.
- (a2) Regulations pertaining to the direction and construction of houses on the village site and arrangement for permits thereof and preservation of record thereof.
- (a3) Preparation of plans and schemes for removal of narrowness of village roads, obtain sanction thereof and arrangement for execution thereof, as sanctioned.
- (a4) Enforcement of laws as fixed by the Government to regulate export of cattle and rendering assistance therein.
- (a5) Enforcement of laws relating to the exports and imports, as fixed by the Government and assistance therein.
- (a6) Enforcement of laws of the following description according to the standard fixed by the Government and assistance therein:—
 - (1) Act relating to trespass by cattle; (2) Law about vaccination; (3) Law regarding weights and measures; (4) Law against gambling; (5) Acts of prohibition for alcoholic drinks; (6) Act of Criminal Offences; (7) Act relating to the stoppage of adulteration in articles of food, etc; (8) Acts for prevention of cruelty to animals; (9) Acts relating to management of District Police Force.
- (xi) In the sphere of self defence and village defence:—
 - (a) Establishment of home guards for the defence and protection of village and Sim sites.
 - (b) Arrangements for the safety and security of the property owned by the Panchayat.
 - (c) Arrangement for appointment of watchmen and guards for protection of standing crops.
 - (d) Protection of the person and property from the inroads of wild and carnivorous animals.
 - (e) Recommendations to the Government for issue of permits for keeping arms for purposes of collective defence.
 - (f) Recommendations for cancellation of permits for keeping arms in case of an individual or an institution in the interest of safety of village people and of preservation of law and order.

- (g) Submission of reports relating to crimes, criminals and suspects.
- (h) Submission of reports to the Government, about persons giving shelter to notorious character, out-laws and robbers about their movements.
- (i) The Panchayat will have the power to recommend the exiles or deporting of an undesirable person of high-handedness or a scoundrel, if there be any in the village.
- (xii) In the sphere of welfare of the people:—
 - (a) Arrangement for places supplying drinking water free of cost to the thirsty (Parabs).
 - (b) Arrangement for the supply of whey in summer.
 - (c) Arrangements for giving relief to the strangers, to the disabled and to the helpless.
 - (d) Rendering help to the village people on occasions of natural calamities.
 - (e) Inauguration and maintenance of relief works calculated to remove unemployment in times of famines.
 - (f) Rendering help in the event of outbreak of fire or in times of catastrophe over the whole village or any individual thereof and in times of man-made calamities.
 - (g) Adoption of remedies against conflagration in grass meadows, dry wood of trees or jungles.
 - (h) Formation of *Sevadals* (a volunteer corps).
 - (i) Rendering assistance to men caught or entangled in natural calamity or in riots and in such other predicaments.
 - (j) Propagation and enforcement of advice calculated to bring about harmony amongst various classes of people, extermination of distinction between the high and the low and communal unity.
 - (k) Propagation to stop child marriages and acceptance of huge sums of money for bride and for bridegroom.
 - (l) Propaganda for taking an ailing person to the nearest hospital.

Other Duties. 19. The Panchayat has the sole authority to undertake or adopt works or measures other than those mentioned in section 18, which are calculated to enhance the health of village people, to ensure their protection and add to their education, happiness and comforts or to improve their economic and social condition and to make arrangements for adoption and execution of any other measure which the Government may direct.

20. The Government has the authority to entrust to the Panchayat any work about which no reference is made in section 18 and by virtue thereof any such work that the Panchayat may carry out, will be held as lawful.

Regarding entrusting of other works to the Panchayat by the Government.

21. With a view to serving the ends of this Chapter the Government will be competent to give over to the Panchayat all places, waste or unoccupied, under the ownership of the Government or the pasture grounds or the public roads and streets, wells, beds of rivers and brooks, tanks, trees or any other property on conditions and limitations which the Government may deem fit.

Regarding award of property to Panchayat.

CHAPTER IV

REVENUE

22. On being convinced that there is harmony tending to collective activities in the village and on faith being engendered with regard to the ability and efficiency of the Panchayat for due discharge of their responsibilities, Government will be free to invest the Panchayat with special powers as described below, by issue of an extraordinary publication of a Notification.

Powers and duties of the Panchayat in the matter of collection and recovery of revenue.

- (i)(a) If it be so directed, the responsibility of recovery of land revenue will rest with the President and the Panchayat and an undertaking in writing, as prescribed in Schedule A, will have to be furnished to the Government through the Panchayat after a resolution being passed by the Village Assembly. If the Village Assembly of any village will fail to furnish such an undertaking in writing to the Government then the responsibility of recovering land revenue will not be on the Panchayat of that village. But the share of land revenue to be given, as fixed by Schedule B under section 24, will be reduced in any proportion that the Government may think fit.
- (b) If there be any reduction or addition made in the fixed land revenue or Khatabandi or Barkhali land now existing the Panchayat shall have to pay the amount in accordance with changed standard.
- (c) The recovery of taxes and levies imposed by the Government or imposed with the sanction of the Government shall be made on lines that may be determined by the Government.
- (d) Money realised by way of recoveries will have to be paid to the Government as shown below :—
 - (A) Land Revenue.—One instalment before the 15th of February in the form of a sum the Government may fix and second instalment on or before 15th of March, of the amount that may be fixed by the Government;

- (B) With regard to other recoveries the amounts thereof are to be paid on the date and in the instalments which the Government may fix.
- (ii) Accounts will have to be permanently entered in Rojmel in accordance with details of accounts such as Heads and Sub-heads and on other lines followed till now in books of bethakhata or in prescribed statements of different villages, and the receipts, etc., thereof in the prevailing form and system will have to be given to the person making such payments. At the end of the year copies of books of bethakhata and of statements referred to above and other statements showing dues will have to be submitted by the Panchayat in the office of the Mamlatdar.
 - (iii) The relation in correspondence in the Panchayat shall remain direct with the officer appointed for the purpose.
 - (iv) The Panchayats shall have to obtain records pertaining to this vahivat at their own cost and this vahivat shall have to be kept in such records after obtaining seals and signatures of different officers, having stamps, counterparts and forms of statements will be furnished to the office of the Panchayat as they are furnished to the Mamlatdar's office.
 - (v) It will be the liability of the Panchayat to effect recoveries of outstanding dues over and above the recovery of land revenue as also of taxes and levies. The Panchayat shall have the power to grant permission to needy cultivators unable to make payments of revenue dues to the extent of 3 % of the annual amount of total land revenue for the whole of the village but the remission to be granted to any such needy cultivator shall not exceed double the amount of the annual land revenue which he has to pay. The Panchayat can advance taccavi loans on the lines fixed by the Government and within the limits shown as above.
 - (vi) The Panchayat will have the power of taking credit for amounts due according to the accounts from the cultivators of the village or Barkhalidars, of restraining or removal of standing crops and of taking under attachment other properties for purposes of recovery and of compelling the defaulting khatedar to relinquish possession of any number of culturable lands as would suffice for the payments of dues from him and of giving the same to others at his risks and by auction on his behalf and thus taking full recovery of dues from him from the amounts thus realised and then of handing over to the khatedar the balance then left.

- (vii) The Panchayats will have the powers of recovering Government's current dues or arrears thereof under the Revenue Recovery Act and if in effecting such recoveries any help or the advice of the Revenue Department be sought it shall be freely extended or given. A statement showing recoveries to be effected of arrears of previous dues will be handed over to the Panchayat simultaneously with their taking charge of revenue administration and these dues too shall have to be recovered by the Panchayats on lines laid down above.
- (viii) If any person in defiance of an order lawfully made by the Panchayat wrongfully disposes of the standing crops or carries on the vahivat of such standing crops or fails to pay in time revenue dues or makes partial payment thereof or commits defaults in presenting himself or causes obstruction or hindrance or offers opposition to the Panchayat in discharge of their lawful duties the Panchayat will have the right of launching prosecution against him before the Nyaya Panchayat (or Court of Justice).
- (ix) If the Village Assembly intends making changes in the methods of recovering revenue dues fixed according to the system of restricted payments even then the Panchayat will have to pay the amount of revenue in instalments fixed as above. No such change of procedure can be made without the approval of the Government.
- (x) A village having a Panchayat shall also be given the same relief, exemption, remission, concession or convenience that is given to other villages in the matter of recovery of dues from them during the course of a lean or famine year.
- (xi) On request being made on behalf of the Panchayat by conducting the formal correspondence for taccavi loans to be given to cultivators on Panchayats liabilities and on lines on which taccavi is advanced to cultivators of the State arrangements will be made to remit the money to the Panchayats from the Taluka Treasury in such a way that the cultivator gets the amount in his own home without bestirring himself.
- (xii) It is the prior right of the Government to collect land revenue and the Government will continue to exercise it. Their right in their standing crops of culturable land in possession of cultivators and in khala and on crops accumulated in any other place shall continue to exist and Government will be competent to effect recovery of dues from such crops in accordance with revenue laws.

- (xiii) When a *darkhast* for execution of a decree passed by a court of law be brought against such crops, whether they be standing crops or whether they have been accumulated in khalas or other places, the execution thereof will be made through the village panchayat on prescribed lines and Government and panchayat dues will have a prior right therein.
- (xiv) The Panchayat shall have the power of taking preliminary steps calculated to ensure recovery of dues from khatedar and barkhalidar such as taking a suri, taking possession of jansi or enforcing the collection thereof in khala.
- (xv) The Panchayat, by virtue of authority vested in them, shall be competent to enter the names of heirs in direct lines in the account of khed but immediately after doing so the Panchayat will have to bring that fact to the notice of the Mamlatdar or the District Officer.
- (xvi) The Panchayat has the power to carry on correspondence on lines fixed by the office of the Mamlatdar in the matter of entry or removal of the names of co-partners or sub-partners of barkhali.
- (xvii) With a view to safeguarding the interest of minor khatedar or barkhali khatedar or minor co-sharer, or minor sub-sharer the Panchayat will be competent to carry on work in the capacity of a guardian.
- (xviii) The Panchayat will have the power of ordering the award of maintenance charges to the parents of khatedar or barkhalidar and to co-partners in a joint family and to their dependants and this can be awarded in a miscellaneous way by taking possession of requisite crops.
- (xix) The Panchayat will be free to make payments to creditors who are decree holders from the balance of civil attachment left after recovery of revenue dues and outstanding balance thereof as also of Government and Panchayat dues after setting apart corn required for maintenance and seeds.
- (xx) The Panchayat has the power to issue permits on prescribed lines for cutting trees and leaves under the ownership of cultivators and of cutting trees and leaves of babul and aal trees under the management of the Panchayat.
- (xxi) The Panchayat can issue permits on prescribed lines for digging out stones, quarries lime, sand, concrete, metal, moram, clay, etc.
- (xxii) The money which may be left in charge of the Panchayat in accordance with this Act will be regarded as Government money.

CHAPTER V

INSTITUTION, PROPERTY AND FUNDS

24. Every Panchayat will be regarded as a lawfully established institution bearing the name as determined by the Village Panchayat and it will continue to remain as a duly established institution from generation to generation and it will have a seal of its own and it will exercise the right of lodging a complaint and of complaint being lodged against it, it will be competent to acquire and hold movable and immovable property in the village or other villages and to carry on management thereof and with regard to such property it will be competent to enter into agreements or to carry on other lawful proceedings. Institution.

But if any immovable property is to be given on lease for a period exceeding three years or it is to be given away in sale or in any other manner, the Panchayat shall not be free to do so without the permission of the Collector.

25. The Village Fund of every Panchayat will be formed as shown in Schedule B. In the said Schedule the Government and its shall, by a Notification, make amendments, additions or reductions. Village Fund its

CHAPTER VI

STAFF OR SERVANTS AND ACCOUNTS

26. Every Panchayat shall make appointment of a Secretary from the trained personnel of Government servants on lines fixed for the purpose. One or more Panchayats can make appointments of a Joint Secretary provided they consider such a course feasible. The Panchayat has to bear all the expenses on account of the pay of the Secretary, his allowance and such other items relating to him. Qualification or eligibility of a Secretary and other servants, their duties, powers, and wages and conditions of service including disciplinary rules, shall remain as they are fixed by the Government. Secretary, staff or servants and accounts.

27. (a) Every year, the Panchayat shall submit to the Collector for his approval, the budget and statement of the staff or servants in the prescribed manner and shall maintain accounts in the prescribed model form.

(b) The auditing of the accounts maintained by the Panchayat will be held by the Government in the manner prescribed.

CHAPTER VII

CONSTITUTION OF VILLAGE BENCHES, THEIR POWERS
AND PROCEDURE

Village Ben-
ches.

28. (i) There shall be a Village Bench of as many members as the Government may, from time to time, decide under this Act. It will have sole authority to adjudicate according to any powers pertaining to law, conferred on it by the Government from time to time. But if the Government deem it proper they may withdraw any of the powers conferred on such Village Benches after publishing a declaration in the Government Gazette.

(ii) Unless otherwise provided for under this Act the term of the office of the members of such Village Benches shall be co-extensive with their own terms in the Panchayat.

(iii) No business shall be transacted by the meeting of the Village Bench if more than half the number of the total strength is not present.

(iv) Unless otherwise provided for in this Act, the village Bench shall work according to established procedure.

The headman
of the Village
Bench.

29. The headman of the village Panchayat shall, by virtue of his powers, be the President of the Village Bench.

Discontinuing
of members
of the Village
Bench.

30. The Government shall under reasons discontinue any of the members of the Village Bench after allowing him an opportunity for an explanation.

Proceeding in
abeyance.

31. Any complaint and the business analogous to it which the Village Bench has a right to hear, shall, if it is started before any court of law, be heard and finished by that law court.

Suits which
Village Bench
can decide.

32. (i) Village Benches shall have powers to decide suits mentioned in Schedule C.

(ii) Village Benches shall have no powers to proceed with suits mentioned in Schedule D.

(iii) Only the Village Bench of the village where a complainant or, if there are more than one, the complainants residing at the time of filing a suit, shall have the powers to hear the suit. This shall have nothing to do with the place where the cause of complaint might have arisen.

(iv) Village Benches are not empowered to receive complaint after a year has elapsed since the cause of complaint arose for the first time.

Crimes which
Village Bench
can hear.

33. (i) The right to decide the cases of crime mentioned in Schedule E shall vest in the Village Bench of the village where the crime might have been committed. But it shall have no powers to hear a complaint lodged after a month has elapsed since the date of the commitment of the crime.

(ii) The Village Bench shall have no power to hear cases mentioned in Schedule F.

34. The Village Bench shall be empowered to mete out **Maximum** punishment to the maximum of what is shown in Schedule **punishment.** G. But the Government shall empower any Village Bench to mete out still greater punishment for the crimes under the law as mentioned in that Schedule.

35. (i) The Village Bench shall have the power to order compensation in favour of the plaintiff from out of the fines, which accrue to it while fixing, or to order compensation in favour of any man for the loss suffered by him in course of complaint. **Power to order compensation to plaintiff, accused or complainant.**

(ii) The Village Bench shall have power to order compensation upto the sum of Rs. 10 to the accused if it is assured of any complaint being false, trifling, vexatious or unduly troublesome.

36. (i) The President, or in his absence any of the members of the Village Bench authorised by him, shall have power to receive any application for filing a suit or complaint together with the fees duly fixed for the purpose. **Procedure for filing suits & complaints.**

(ii) If the plaintiff or the complainant is not in a position to give in written application the President, or in his absence any of the members authorised by him shall hear his complaint orally and shall render it in writing and shall get it signed by some one for him with his thumb impression taken on it.

(iii) Suits and complaints shall be heard and the execution of the decrees is to be done according to the procedure laid down.

37. An appeal against any decree passed by any Village Bench shall lie before the duly empowered District Sessions Court within 30 clear days after the decree or the order is passed. The decision of the Appellate Court shall be final and no application for any appeal or revision shall be entertained. But the powers of supervision vested in the High Court are not hereby affected. **Appeals.**

38. As a result of any application of any party the duly empowered District Magistrate Court or the District Sessions Court shall order any proceedings in a suit or in a complaint, which are heard by any Village Bench of that District, to be transferred from that Village bench to any other civil or criminal court respectively. **Transfer of proceedings.**

39. As a result of executing any decree under this Act, no person shall be either detained or imprisoned. **Limitation for execution**

40. The party shall personally undertake the work of hearing and arguing any of the applications, suits or complaints before the Village Bench. But under special circumstances, the Village Bench can permit a servant, relative **No pleaders allowed.**

or a friend of the party, who does not happen to be a pleader or a Mukhtiar to hear and argue out on behalf of the party.

CHAPTER VIII

TAXES AND LIABILITIES

Imposition of taxes and their varieties. 41. (1) The Panchayat shall, when the Government directs or on its own behalf, impose all the taxes and fees as described in Schedule H or any one of them subject to the manner, rate and concession which may be fixed by the Government.

(2) Any person shall have the right to pay the taxes in cash or in kind or in the form of wages earned by doing any work or labour and in the manner prescribed for the purpose.

(3) The Government has the power to impose any tax or fee or of recovering or suspending the same and of cancelling such suspension.

(4) Over and above the taxes and fees enumerated in Schedule H if a tax or a fee has to be imposed on any other item Government shall be competent to do so by a Notification.

(5) Government has the power to effect reduction or increase or to make modification of any kind with regard to any tax and to issue orders to the Panchayat for due enforcement thereof.

(6) The Village Panchayat should obtain the approval of the Government for imposition of any tax or fee according to sub-section (1) or of reduction therein and the Panchayat shall have to adopt any course of action that the Government may direct while according such approval.

Old taxes and levies. 42. If in any covenanting State, estate or taluka any tax other than those annulled by this Act and other than those shown in sub-section (1) of section 41 under the Act relating to Panchayat continues to be recovered, it should be deemed as imposed under this Act and it will be collected by the Panchayat established under this Act.

Process of recovering taxes and other levies. 43. When any tax or fee becomes due it should be recovered by the Panchayat from a person liable for its payment and in the manner which may be prescribed for the purpose.

Advancing loans by Government. 44. Government has the power to advance loans to the Panchayats according to the prescribed rules, to fulfil the ends and objects of this Act.

CHAPTER IX

EXERCISE OF CONTROL

45. (i) Government has the power of entrusting to any specially appointed officer, or any other officer, the work of extending encouragement for the establishment of Panchayat and for bringing about the expansion thereof and for rendering help in exercise of the powers vested in them by virtue of this Act in an efficient manner and in discharging their duties properly.

Entrusting powers, appointment of officers, employment of any means for extending encouragement to establishment of Panchayat and for bringing about its expansion.

(ii) The Government is free to accept the honorary and voluntary services and to utilise such services of any person who is specially qualified to render help in this work and in this direction and who in the opinion of the Government is competent to discharge faithfully any of the several duties that can be entrusted to him under sub-section (i).

46. The Collector, or any other officer appointed by him, will have the right of entering any immovable property under the enjoyment of any Panchayat and of entering into any public work which is being carried on under its orders and of inspecting the same or of allowing others to enter therein or getting the same inspected by others.

Powers to enter and examine the properties and works of the Panchayat.

47. (1) If in the opinion of the Government any Panchayat is carrying on its activities beyond the scope of its powers and jurisdiction or is making a misuse of its powers or in consequence of difference of opinion amongst the President and the members a default is made by the President or if it continues making defaults every now and then in the discharge of duties imposed upon it by virtue of section 18, or under any other Act, which may be in force for the time being, or if it persistently ignores or disregards every now and then any of the orders of the Collectors then the Government by an Order published in the official Gazette is empowered :—

Suspension or dismissal of the Panchayat for committing defaults.

(a) to dissolve such Panchayat, or

(b) to suspend such Panchayat for such period as is specified in the said Order.

(2) When any Panchayat is dissolved or suspended all the members of the Panchayat should relinquish their office as members from the date specified in that Order.

(3) When any Panchayat is dissolved it should be reconstituted in the manner prescribed in the Act.

(4) If any Panchayat be suspended—

(a) During the period of suspension of the Panchayat all powers and duties of the Panchayat should be exercised or discharged by the person or persons whom the Government appoint from time to time for that purpose.

(b) All the property acquired by the Panchayat shall be acquired and owned by the Government during the period of its suspension in this manner.

- (c) And on the expiry of the term of period for which the Panchayats are suspended another Panchayat should be re-constituted on the lines laid down in this Act.
- (d) And persons who have relinquished their offices shall be deemed eligible for re-election or re-appointment.

Powers of Government. 48. The Government have, in all matters having a bearing on this Act, the same powers and control that the Collector exercises in the matters of ordinary land administration, respectively over Collectors and other servants under them, and it should be deemed that the Government shall exercise such powers and control in all such matters respectively over Collectors and other servants under them.

CHAPTER X

INTER-PANCHAYAT FUNCTIONS

Assumption of joint functions. 49. (i) Any village Panchayat shall join hands from time to time with any other neighbouring Village Panchayat or Panchayats or with Panchayat or Panchayats in one Taluka or with Panchayats under any District or Sub-District or with any Municipality of the District, will hold consultation with such Panchayats and will undertake or entrust joint schemes with the purpose of fulfilling the following objects :—

- (a) Determination of matters of joint interests;
- (b) Appointments of joint committees for purposes of taking in hand such matters;
- (c) Framing of regulations for the working of the joint committees;
- (d) Managing the construction and maintenance of such joint works;
- (e) Determining the conditions binding the institutions concerned in such joint works or to appoint a sub-committee or a special committee for that purpose;
- (f) Entrusting the responsibility of the joint work to any one of the institutions gathering together to maintain that joint work.

(ii) The Collector, the Deputy Collector and the Mamlatdar shall be the Presidents of the Local Institutions of District or Sub-District and Taluka respectively if they have met in the joint meeting as mentioned in sub-section (i).

Joint recovery of Octroi. 50. Any Gram Panchayat, for the purpose of recovery of octroi duty (local duty) is empowered to make agreement from time to time with other Gram Panchayats or with any other local institution or with the body of any such institution subject to the sanction of the Government so that the collection of octroi duty within the limits of the respective institution which makes such agreement can be made collectively instead of individually.

51. When any Gram Panchayat has asked for the concurrence of any other local institution in respect of any subject in accordance with sections 49 and 50 and when that other institution has refused such concurrence the Collector is authorised to make such order as should be executed by the respective institution. Collector's decision in the joint samiti.

52. If any difference of opinion amongst the institutions functioning under the aforesaid sections 49, 50, and 51 arises the decision of the Government or of the officer appointed by the Government, will be deemed final in that respect. Decisions in case of difference of opinion.

CHAPTER XI

RULES AND BYE-LAWS

53. (i) The Government will frame, by Notification, rules and bye-laws for the execution and implementation of the objects of this Panchayat Act.

(ii) The Government is empowered to make the under-mentioned provisions in respect of rules and bye-laws—

- (a) The Panchayat can inflict fine upto Rs. 10 if there is a breach of the rule or bye-law.
- (b) In any case of the continuance of breach the Panchayat can inflict a fine of Re. 1 per day after the offence of breach is proved and during the continuance of the breach.

CHAPTER XII

54. (i) Every member of the Panchayat will be held individually responsible, in respect of shortage, loss or misuse of the money or any other property of the Panchayat in the under-mentioned cases:— Responsibility of the members for shortage, loss or misuse.

- (a) When he is involved in such shortage, loss or misuse.
- (b) When such shortage, loss or misuse has taken place due to his conduct.
- (c) When such shortage, loss or misuse has taken place due to the serious carelessness of his duty as a member or facility offered in doing so.

(ii) On any of the occasions mentioned in sub-section (i) above, the Collector will give sufficient opportunity to the member concerned to show the cause to the contrary. After giving such opportunity if the Collector is convinced that the shortage, loss or misuse that took place in respect of any money or property of the Panchayat is due to misconduct or is evidently a result of serious carelessness, the Collector should direct the said member by issuing an order that he should for the purpose of making good any such shortage, loss or misuse remit the necessary amount to the Panchayat before the stipulated date.

(iii) In case the said amount is not paid accordingly the Collector may collect the said amount as arrears of revenue taxes and credit the proceeds in the village Panchayat Fund.

(iv) An appeal can be made to the Government on the decision of the Collector in respect of the responsibilities of any member and the amount to be recovered from him according to sub-sections (i) and (ii) respectively.

Notice to be served on Panchayats for all lawful acts done in good faith.

55. (i) No member, officer, servant or the agent of Panchayat or Nyaya Panchayat will be liable for prosecution for any action done by him in good faith under orders of Panchayat or President under these rules or bye-laws.

(ii) No prosecution will lie against any member, officer, servant or agent of Panchayat or Nyaya Panchayat within 3 months from the date of a written notice served on him or posted on the place of holding any inquiry against him in respect of Panchayat or Nyaya Panchayat in accordance with or against the provisions of this Act. The said notice should show the reasons underlying the prosecution of the inquiry, the nature of complaint, the amount of damages claimed and the name of claimant and the place of his residence.

(iii) Prosecution in each case should be taken in hand within six months from the date of the commitment of the offence but not after the expiry of that period.

(iv) If any Panchayat or any Nyaya Panchayat or its servants, so served with a notice, begin to pay due compensation to the applicant or deposit the amount of compensation in the court before the proceedings are commenced the claimant should not recover more money than offered for payment. The claimant will also be liable for all cost incurred by the defendant after he has started payment of compensation.

Delegation of powers.

56. (i) The Government, by publishing a notification in the Government Gazette may delegate any power which it can exercise under this order, except powers in pursuance of Chapter VII, concerning Nyaya Panchayat, to the Collector with regard to the Panchayat or any officer including the officer authorised specially under sub-section (i) of section 45.

(ii) The District Courts, under the rules in this behalf, may delegate to the subordinate judge the powers of the District Court as regards complaints in pursuance of this Act in the matter of Nyaya Panchayat of the village situated within the jurisdiction of any subordinate judge.

(iii) The Sessions Court, in pursuance of the rules made in this behalf, may delegate to the first class magistrate exercising appellate jurisdiction under section 407 of the Criminal Procedure Code of 1898 A. D., the powers of the Sessions Courts, as regards cases in accordance with this Act in the matter of Nyaya Panchayat in the village under the jurisdiction of the said court.

57. Every member of the Panchayat and Nyaya Panchayat or every officer, servant appointed or engaged by the Panchayat or the Nyaya Panchayat shall be deemed to be Government servant within the meaning of section 21 of the Indian Penal Code as adopted.

58. All laws, acts or orders concerning village Panchayats in the covenanting States, estates or talukas, which have the force of law before the commencement of this Act and which have been hereafter referred to as the said Acts in this section and which were in force are hereby repealed; provided that—

- (a) This order repealing the said laws shall not affect the legality or illegality of any act done before under any law amongst the said laws.
- (b) All Panchayats in existence before this Act came into force and established under the said laws shall be deemed to be established under this Act and the rights and liabilities of any such Panchayats which will be deemed to have been so established will devolve and apply to the Panchayat. And any appointment, notification, notice, tax, order, permission, rule or bye-law made, issued or imposed in respect of any Panchayat under the Act so repealed shall, so far as is not inconsistent with the provisions of this Act, be deemed to have been made, issued, or imposed under the provisions of this Act in respect of the Panchayats so deemed to have been established under this Act unless and until superseded by any appointment, notification, notice, tax, order, permission, rule or bye-law made, issued or imposed under this Act.

SCHEDULE A

(Under section 22)

To

THE GOVERNMENT OF THE UNITED STATE OF SAURASHTRA.

We, the President and members of the village Panchayat of the Village.....of the Taluka/Mahal of the.....District do hereby bind ourselves as follows :—

1. The Village Assembly of that said village having resolved on.....that the land revenue of the said village will be recovered through us and having sent the said resolution to the Government, we, the President and the members of the Panchayat, do hereby undertake that we shall recover the land revenue of the said village in accordance with the amount fixed and rules framed by the Government from time to time and shall pay the same into the Government treasury. The liability for this rests on us.

2. According to the Act of the Saurashtra Gram Panchayat and its rules and regulations we bind ourselves to collect land revenue in accordance with the Government orders and the Government has to render help whenever demanded by us for that said purpose.

3. If the Village Assembly resolve for this undertaking and send the said resolution, undertaking from such date, after the end of the revenue year in which the said resolution was so sent, as may be fixed by the Government.

4. The above undertaking has been given and signed by us in the presence of the Mamlatdar. Mahalkari of Taluka/Mahal and is binding on us.

Date.....

Signature.

.....Sarpanch.

Members of the Panchayat.

- 1.
- 2.
- 3.
- 4.

Before me.

Mamlatdar

Taluka

Mahalkari

Mahal

Date:

SCHEDULE B

(Under section 24)

The following shall form a part of, or be paid into, the Village Fund, namely :—

- (a) The part, not being less than one-fifth nor more than one-third, the land revenue collected from the Panchayat area and of the proceeds of other taxes determined by the Government less the collection charges as prescribed by the Government from time to time after consideration of the responsibility of the Panchayat;
- (b) Sums contributed to the Village Fund by the Government or any other body;
- (c) All sums received by way of loans from the Government or by way of gift; sums received by way of donations;
- (d) The amount which may be allotted to the Village Fund by the Government under the provisions of section 191 of the Bombay District Municipal Act, 1901, as applied to the United State of Saurashtra;
- (e) All sums accruing to the Panchayat under this Act;
- (f) All sums accruing to the Panchayat under any other Act or under any orders of the Government from time to time;
- (g) The income or the proceeds of the property and fund of the Panchayat under this section.

SCHEDULE C

[Under section 32 (1)]

SUITS TRIABLE BY NYAYA PANCHAYAT

- (a) Suits on money due on personal loans and on contracts not affecting any interest in immovable property;
- (b) Suits for the recovery of the movable property or for the value of such property;
- (c) Suits for compensation for wrongfully taking and injuring the immovable property;
- (d) Suits to recover the price of the goods sold;
- (e) Suits to recover money due on account of salary, wages or allowances;
- (f) Suits for compensation for damaging the standing crops;
- (g) Suits by a sharer or by his wife or a widow to obtain maintenance from co-sharers of a joint family;
- (h) Suits by a father, mother or a wife to obtain maintenance from a son or a husband respectively.

In the above-mentioned suits the amount of value of the claim must not exceed one hundred rupees.

SCHEDULE D

[Under section 32 (ii)]

SUITS THAT CANNOT BE HEARD BY NYAYA PANCHAYAT

- (a) For arrears of the accounts of partnership;
- (b) For claim for getting the whole share in case of a death, where no will is made, or for claiming a share in inheritance;
- (c) Suits by or against Government; or by or against any local officer; or by or against any officer of Government; or by or against any Government servants; or by or against any person, officer or servant acting as *ex-officio*;
- (d) By or against a minor; or a lunatic;
- (e) In case of a suit or an application for or in regard to a complaint which can be heard by the court such complaint or application.

SCHEDULE E

[Under section 33 (i)]

SUITS THAT CAN BE HEARD BY THE NYAYA PANCHAYAT

Sr. No.	Kind of offence	Sections of the Act
ACCORDING TO INDIAN PENAL CODE		
1	For Affray	160
2	For an act done indifferently in spite of the knowledge that by such act there is a likelihood of a spread of the disease which is such as would be harmful to human life	269
3	For polluting water of public streams and wells	277
4	For indifferently driving or riding on public roads	279
5	For creating any danger, obstruction or damage on any public roads	283
6	For any indifferent act towards any animal	289
7	For any acts detrimental to public welfare, for which there is no provision	290
8	For obscene songs and acts	294
9	For acts of deliberate harm	323
10	For acts of deliberate harm due to provocation	334
11	For acts of improper restraint	341
12	For acts of assaults or for acts of criminal force done in cases when they are not done on account of grave and sudden provocation	352
13	For acts of assaults or criminal force with intent to rape any woman	354
14	For acts of assaults or criminal force on grave and sudden provocation	358
15	For forcefully belabouring against law	374
16	For theft, theft in a residential house or theft by a servant when the value of the property stolen is not more than Rupees 100	379 to 381
17	For accepting the stolen property with bad intention	411
18	For damage in case where the amount of such loss or damage does not exceed Rupees 100	425

Sr. No.	Kind of offence	Section of the Act
ACCORDING TO INDIAN PENAL CODE— <i>contd.</i>		
19	For damage done by killing or maiming any animal	42C
20	For damage done by killing or maiming any cattle	429
21	For damaging works for drawing water or for damage done by improperly diverting water course	430
22	For criminal trespass	447
23	For house trespass	448
24	For act of criminally breaking open and or closing a receptacle containing or believed to be containing any property	461
25	For acts of hatred with deliberate intention to disturb peace	504
26	For acts of criminal threat	506
27	For using language or showing gestures with intention to molest a woman	509
28	For improper conduct in public by a drunkard	510
UNDER THE CATTLE TRESPASS ACT, 1871		
29	For catching, opposing or releasing cattle	24
30	For cattle trespass	25
31	For causing injury by cattle to land, crop or public road	26
UNDER THE PREVENTION OF CRUELTY TO ANIMALS ACT, 1890		
32	Practising phooka	4
33	Killing animal with unnecessary cruelty	5
34	Being in possession of the skin of a goat killed with unnecessary cruelty	5A
35	Employing animals unfit for labour	6
36	Baiting or inciting animals to fight	6C
37	Permitting deceased animals to go at large or to graze in public places	7
UNDER THE BOMBAY DISTRICT POLICE ACT, 1890		
38	Being drunk and incapable of taking care of himself in a street or public place or place of public resort	61(1)(p)
UNDER THE BOMBAY DISTRICT VACCINATION ACT, 1892		
39	Inoculating, entering a vaccination area after inoculation and bringing persons inoculated into that area	32
UNDER THE BOMBAY PREVENTION OF ADULTERATION ACT, 1925		
40	Sale of manufacture of food not of the proper nature, substance or quality	4
41	Breaches of bye-laws made punishable under this Act . . . . .	..

SCHEDULE F

[Under section 33 (ii)]

OFFENCES NOT COGNIZABLE BY A NYAYA PANCHAYAT

- Any offence in which the accused has been previously convicted of an offence punishable under Chapter XVII of the Indian Penal Code, with imprisonment of either description for a term of three years or upwards.
- An offence in which the accused has been previously fined for theft by any Panchayat.
- An offence in which the accused is a registered member of a criminal tribe under section 4 of the Criminal Tribes Act, 1924.
- An offence in which the accused has been bound over to be of good behaviour in proceedings instituted under section 109 or section 110 of the Criminal Procedure Code, 1898.

SCHEDULE G

(Under section 34)

MAXIMUM PENALTIES THAT MAY BE INFLICTED BY A NYAYA PANCHAYAT

- (a) Under the Indian Penal Code, fine not exceeding Rs. 20 or double the amount of the loss or damage caused up to a limit of Rs. 40;
- (b) Under section 24 of the Cattle Trespass Act, 1871, fine not exceeding Rs. 10.
- (c) Under section 36 of Bombay Primary Education Act, 1947, or under any of the Acts mentioned in section 33 (i), fine not exceeding Rs. 20.
- (d) Under section 35 of the Primary Education Act, 1947, fine as provided in the said section.
- (e) For a breach of a bye-law made punishable under this Act, fine not exceeding Rs. 10 or Re. 1 a day for a continuing breach as provided in sub-section (ii) of section 53.

SCHEDULE H

[Under Section 41 (i)]

List of Taxes or Fees

- 1. Tax upon the owners or the occupiers of houses, including farm buildings, whether or not subject to payment of agricultural assessment, and of lands which are not subject to payment of agricultural assessment within the limits of the village.
- 2. Tax on shops, fairs, festivals, and entertainments.
- 3. Octroi on local import duty.
- 4. Tax on vehicles and wheels.
- 5. Tax on shops and hostels.
- 6. (a) Ordinary sanitary tax,
(b) Special sanitary tax.
- 7. Fee on Bazar and Gujri Bazar.
- 8. Toll on vehicles and animals.
- 9. Fee for use of Dharmashalas, Sarais, rest houses and camping grounds.
- 10. Tax on water, if supplied by the Gram Panchayat.
- 11. Any other tax, Vero, Lago, Octroi Duty, or fee, which may be directed by the Government.

THE TRAVANCORE-COCHIN PANCHAYATS ACT, 1950

Travancore-Cochin Act No. II of 1950

Preamble. WHEREAS it is expedient to make better provision for the administration of village affairs by Panchayats;

It is hereby enacted as follows :—

Short title, extent and commencement. 1. (1) This Act may be called the Travancore-Cochin Panchayats Act, 1950.

(2) It extends to the whole of the State of Travancore-Cochin except the City of Trivandrum and the Municipal areas governed by the Travancore District Municipalities Act, 1116 (XXIII of 1116) or the Cochin Municipal Act, 1113 (XVIII of 1113), as the case may be.

(3) It shall come into force on such date as Government may, by notification in the Gazette, appoint.

Definition. 2. In this Act, unless there is anything repugnant in the subject or context,—

- (1) “building” includes a house, out-house, stable, latrine, shed, hut and any other such structure whether of masonry, wood, brick, mud, metal or any other material whatsoever;
- (2) “casual vacancy” means a vacancy occurring otherwise than by efflux of time, and “casual election” means an election held to fill a casual vacancy;
- (3) “company” means a company as defined in the Travancore Companies Act, 1114, or the Cochin Companies Act, 1120, as the case may be, and includes any firm or association carrying on business in the State of Travancore-Cochin whether incorporated or not and whether its principal place of business is situated in the State of Travancore-Cochin or not ;
- (4) “Director” means a Director of Panchayats appointed by Government and includes an acting or officiating Director and also any officer appointed by Government to exercise or to be in charge of the functions of the Director ;
- (5) “election authority” means such authority not being the president or vice-president or a member of the Panchayat as may be prescribed;
- (6) “executive authority” means in the case of a panchayat for which a panchayat officer is appointed, the panchayat officer, or, if there is no panchayat officer in charge, the president of the panchayat ;

- (7) "latrine" includes privy, pit, water-closet and urinal;
- (8) "local authority" includes a Municipal Council and any other similar authority that may be constituted or declared by Government to be a local authority;
- (9) "member" means the member of a panchayat;
- (10) "ordinary vacancy" means a vacancy occurring by efflux of time and "ordinary election" means an election held to fill an ordinary vacancy;
- (11) "panchayat" means the body constituted for the local administration of a panchayat area under this Act;
- (12) "panchayat area" means any local area declared as such by Government for the purposes of this Act;
- (13) "prescribed" means prescribed by Government by rules made under this Act;
- (14) "president" means the president of a panchayat;
- (15) "private road" means any street, road, square, court, alley, passage, cart-track, foot path or riding path which is not a public road; but does not include a pathway made by the owner of premises on his own land to secure access to, or the convenient use of, such premises;
- (16) "public road" means any street, road, square, court, alley, passage, cart-track, foot path, or riding path, over which the public have a right of way whether a thoroughfare or not, and includes—
 - (a) the roadway over any public bridge or causeway;
 - (b) the footway attached to any such road, public bridge or causeway; and
 - (c) the drains attached to any such road, public bridge or causeway, and the land, whether covered or not by any pavement, verandah or other structure, which lies on either side of the roadway up to the boundaries of the adjacent property, whether that property is private property or property belonging to Government;
- (17) a person is deemed to have his "residence" or "to reside in any house" if he sometimes uses any portion thereof as a sleeping apartment and a person is not deemed to cease to reside in any such house merely because he is absent from it or has elsewhere another dwelling in which he resides, if he is at liberty to return to such house at any time and has not abandoned his intention of returning;
- (18) "village" means a local area recognised by Government from time to time as a village for purposes of land revenue administration.

CHAPTER II

CONSTITUTION, GOVERNMENT AND CONTROL OF PANCHAYATS

Power to
create and
alter pancha-
yat areas.

3. (1) Government may, by notification in the Gazette,—

- (a) declare any village or group of adjacent villages or portion or portions thereof to be a panchayat area for the purposes of this Act and specify the name of the panchayat area; or
- (b) exclude from a panchayat area any village or local area comprised therein; or
- (c) include in a panchayat area any village or local area in the vicinity thereof;
- (d) cancel a notification issued under clause (a) or alter the name of the panchayat area as notified under the said clause :

Provided that before issuing a notification under clause (b), clause (c) or clause (d), Government shall give the panchayat or panchayats which will be affected by the issue of such notification a reasonable opportunity for showing cause against the proposal and shall consider the explanations and objections, if any, of such panchayat or panchayats.

(2) Upon the publication of a notification under clause (d) of sub-section (1) cancelling a notification issued under clause (a) thereof, the panchayat shall cease to exist, and all the members of the panchayat, including its president and vice-president shall forthwith be deemed to have vacated their offices.

(3) When a notification is published under sub-section (2) Government shall be entitled to all the assets and be subject to all the liabilities of the panchayat as on the date of the notification.

(4) Government may pass such orders as they may deem fit—

- (a) as to the disposal of the property vested in a panchayat which has ceased to exist and the discharge of its liabilities, and
- (b) as to the disposal of any part of the property vested in the panchayat which has ceased to exercise jurisdiction over any local area.

Constitution
of pancha-
yats.

4. (1) Government may, by notification in the Gazette, constitute a panchayat for each panchayat area for carrying out all or any of the purposes of this Act.

(2) Subject to the provisions of this Act, the administration of the panchayat area shall vest in the panchayat, but the panchayat shall not be entitled to exercise functions expressly assigned by or under this Act or any other law to its president or executive authority.

5. Every panchayat shall be a body corporate by the name of the panchayat area which is specified in the notification under clause (a) of sub-section (1) of section 3, shall have perpetual succession and a common seal, and subject to any restriction or qualification imposed by this or any other Act, shall be vested with the capacity of suing or being sued in its corporate name, of acquiring, holding and transferring property, movable or immovable, of entering into contracts and of doing all things necessary, proper or expedient, for the purpose of its constitution.

Incorporation of a panchayat.

6. The total number of members of a panchayat shall be notified by Government in the Gazette in accordance with such scale as may be prescribed with reference to population in each panchayat area.

Strength of panchayat.

7. (1) The members of a panchayat shall, save as otherwise expressly provided in this Act, be elected in such manner as may be prescribed.

Election of members.

(2) Where the number of Scheduled Caste voters in a Panchayat is not less than five per cent. of the total number of voters in that Panchayat, one seat shall be reserved therein for the Scheduled Castes :

Provided that at the end of ten years from the date of the first ordinary elections in the Panchayat to be held under the provisions of this Act such reservation shall cease.

(3) Nothing contained in sub-section (2) shall be deemed to prevent members of the Scheduled Castes for whom a seat has been reserved in a Panchayat, from standing for election to the non-reserved seats in that Panchayat.

(4) For the purpose of this section 'Scheduled Castes' shall mean the castes which Government may by notification in the Gazette declare to be Scheduled Castes.

8. For the purpose of electing members to a panchayat, Government may, by notification in the Gazette,—

Division into wards and method of election.

(a) divide the panchayat area into wards;

(b) determine the number of members (whether one or more) which each of the wards shall elect to the panchayat.

9. (1) The term of office of the members of every panchayat who are elected at ordinary elections shall, save as otherwise expressly provided in, or may be provided under this Act, be three years beginning at noon on the day on which the vacancies occur:

Term of office of elected members.

Provided that Government may, by notification in the Gazette, direct that the term of office of the members of any panchayat as a whole be extended by such period as may be specified in the notification.

(2) Ordinary vacancies in the office of elected members of a panchayat shall be filled at ordinary elections which shall be fixed by the election authority to take place on such day or days within three months before the occurrence of the vacancies as he thinks fit:

Provided that Government may for sufficient cause direct or permit the holding of any ordinary election after the occurrence of the vacancy.

(3) (a) Every casual vacancy in the office of a member of a panchayat shall be reported by the executive authority to the election authority within such time as may be prescribed and the election authority shall proceed to conduct the election within such time as may be prescribed.

(b) A member elected in a casual vacancy shall enter upon office forthwith, but shall hold office only so long as the member in whose place he is elected would have been entitled to hold office if the vacancy had not occurred.

(c) Unless Government otherwise direct no casual election shall be held to a panchayat within three months before the date of retirement of its members by efflux of time.

(4) Where the number of members of a panchayat is increased, the members elected for the additional seats or the members elected in their places in casual vacancies shall hold office until the date on which the members elected to the original seats at the ordinary election immediately preceding, will vacate office.

Appointment of members in certain cases and their term of office.

10. (1) If at an ordinary or casual election, no person is elected to fill the vacancy or one or more of the vacancies, as the case may be, Government may appoint a qualified person or persons to fill up such vacancy or vacancies.

(2) In case Government are satisfied that an ordinary or casual election cannot be successfully held on account of faction or disorder in the panchayat area or any other cause, they may, notwithstanding anything contained in this Act, appoint a qualified person or persons to fill the vacancies. In the case aforesaid, Government shall also have power to direct such reduction in the total number of members of the panchayat as they think necessary.

(3) The term of office of a member of a panchayat appointed under sub-section (1) or sub-section (2) shall, unless Government otherwise direct, expire at the time at which it would have expired if he had been elected at the ordinary or casual election, as the case may be.

Preparation and publication of electoral roll and qualification for inclusion therein.

11. (1) An electoral roll for each panchayat showing the names of persons qualified to vote at elections thereto, shall be prepared and published, and shall be revised at such times, by such authority, and in such manner as may be prescribed.

(2) Every person whose name is included in the electoral roll for any constituency of the Legislative Assembly of the State of Travancore-Cochin which relates to a village or any portion thereof comprised in the panchayat area shall be entitled to be included in the electoral roll of the panchayat and no other person shall be entitled to be included therein.

Explanation.—Where in the electoral roll of any constituency of the Legislative Assembly of the State of Travancore-Cochin, there is no distinct part relating to the village the names of all persons who are entered in such roll under the registration area comprising such village and whose addresses as entered in such roll are situated in such village, shall be entitled to be included in the electoral roll for the panchayat area.

(3) No person's name shall be included in the electoral roll for a panchayat area in more than one place.

(4) When a panchayat area has been divided into wards, the electoral roll of the panchayat area shall be divided into separate parts for each ward.

Every person whose name appears in the electoral roll for the panchayat area shall, so long as it remains in force and subject to any revision thereof which might have taken place and subject also to the other provisions of this Act, be entitled to vote at an election; and no person whose name does not appear in such roll shall vote at an election:

Provided that a person who is of unsound mind and stands so declared by a competent court, a deaf-mute or a leper shall not be entitled to vote at any election even if the name of such a person appears on the electoral roll.

12. No person shall be qualified for election to any seat on a panchayat unless:— Qualification of candidates.

- (a) his name appears on its electoral roll;
- (b) he has completed his twenty-fifth year of age;
- (c) he can read and write Malayalam, Tamil or English.

13. (1) A person who has been convicted by a criminal court and sentenced to undergo imprisonment for a period of more than six months for an offence other than an offence of a political character not involving violence or an offence not involving moral delinquency such sentence not having been reversed or the offence pardoned shall be disqualified for election or appointment as a member while undergoing the sentence and for five years from the date of expiration thereof: Disqualification of candidates.

Provided that Government may direct that such sentences shall not operate as a disqualification.

(2) A person shall be disqualified for election or appointment as a member if such person is at the date of election or appointment—

- (a) of unsound mind and stands so declared by a competent court, a deaf-mute or a leper;
- (b) an applicant to be adjudicated an insolvent or an undischarged insolvent;
- (c) interested in a subsisting contract made with, or any work being done for, the panchayat, except as a shareholder (other than a director) in a company having not less than fifty shareholders or except as permitted by rules made under this Act;

- (d) an officer or servant of the panchayat, or an honorary magistrate with jurisdiction over any part of the panchayat area;
- (e) already a member of a panchayat or municipality whose term of office will not expire before his fresh election or appointment can take effect or has already been elected or appointed a member of a panchayat or municipality whose term of office has not yet commenced;
- (f) employed as a paid legal practitioner on behalf of the panchayat or as legal practitioner against the panchayat;
- (g) in arrears of any kind due by him (otherwise than in a fiduciary capacity) to the panchayat up to and inclusive of the previous year in respect of which a bill or notice has been duly served upon him and the time, if any, specified therein for payment, has expired;
- (h) dismissed or suspended from the service of Government or any other service recognised by Government;
- (i) debarred from practising as an Advocate or a Vakil.

**Disqualifica-
tion of Gov-
ernment ser-
vants, etc.**

14. (1) No officer or servant of Government shall be qualified for election as member or for holding office as an elected member:

Provided that if any question arises either before or after an election whether any person is or is not disqualified under this sub-section, the question shall be referred to Government whose decision shall be final.

(2) (a) If any person is elected as a member to more than one panchayat or ward he shall, by notice in writing delivered to the election authority within seven days from the date of the declaration of such election, choose which of those panchayats or wards he shall serve and the choice shall be conclusive.

(b) When any such choice has been made, the election authority shall call upon the panchayat area or ward, as the case may be, which such person has not chosen to serve to elect another person.

(c) If the candidate does not make the choice referred to in clause (a), the election of such person shall be void, and the election authority shall call upon the panchayat areas or wards for which he has been elected to elect other persons.

**Disqualifica-
tion of persons
convicted of
election offen-
ces.**

15. Every person convicted of an offence punishable under Chapter-IX A of the Travancore Penal Code or Chapter VIII-A of the Cochin Penal Code or under any law or rule relating to the infringement of the secrecy of an election, shall be disqualified from voting or from being elected in any election to which this Act applies or from holding the office of member

of a panchayat for a period of five years from the date of his conviction or for such shorter period as Government may by order determine.

16. (1) Subject to the provisions of section 17, a member shall cease to hold office, if he— Disqualifica-
tion of
members

- (a) is sentenced by a criminal court to such punishment and for such offence as is described in sub-section (1) of section 13;
- (b) becomes of unsound mind and stands so declared by a competent Court;
- (c) applies to be adjudicated or is adjudicated an insolvent;
- (d) acquires any interest in any subsisting contract made with, or work being done for, the panchayat except as a shareholder (other than a director) in a company having not less than fifty shareholders or except as permitted by rules made under this Act;
- (e) is employed as a paid legal practitioner on behalf of the panchayat, or accepts employment as legal practitioner against the panchayat;
- (f) is appointed as an officer or servant under this Act, or as an honorary Magistrate with jurisdiction over any part of the panchayat area;
- (g) ceases to reside in the panchayat area;
- (h) fails to pay arrears of any kind due by him (otherwise than in a fiduciary capacity) to the panchayat within three months after a bill or notice has been served upon him in pursuance of rules made under this Act, or where in the case of any arrear, such rules do not require the service of any bill or notice, within three months after a notice requiring payment of the arrear (which notice it shall be the duty of the executive authority to serve at the earliest possible date) has been duly served upon him; or
- (i) absents himself from the meetings of the panchayat for a period of three consecutive months reckoned from the date of the commencement of his term of office or of the last meeting which he attended, or of his restoration to office as member under sub-section (4), as the case may be, or if within the said period, less than two meetings have been held, absents himself from two consecutive meetings held after the said date:

Provided that no meeting from which a member absents himself shall be counted against him under this clause if due notice of that meeting was not given to him.

Explanation.—A meeting held for the transaction of urgent business after giving shorter notice than that prescribed for an ordinary meeting or on requisition of the members of the panchayat shall not be deemed to be a meeting within the meaning of this clause.

(2) Notwithstanding anything contained in clause (a) of sub-section (1), Government may direct that such sentence shall not operate as disqualification.

(3) Where a person ceases to be a member under section 15 or clause (a) of sub-section (1) of this section, he shall be restored to office for such portion of the period for which he was elected as may remain unexpired at the date of such restoration, if and when the sentence is annulled on appeal or revision or the disqualification caused by the sentence is removed by an order of Government and any person elected or appointed to fill the vacancy in the interim shall, on such restoration, vacate office.

(4) Where a person ceases to be a member under clause (i) of sub-section (1), the president shall at once intimate the fact in writing to such person and report the same to the panchayat at its next meeting. If such person applies for restoration to the panchayat on or before the date of its next meeting or within fifteen days of the receipt by him of such intimation, the panchayat may at the meeting next after the receipt of such application restore him to his office of member:

Provided that a member shall not be so restored more than twice during his term of office.

Authority to decide questions of disqualifications of members.

17. (1) Whenever it is alleged that any person who has been elected as member of a panchayat is not qualified under section 12, or has become disqualified under section 14, 15 or 16 and such person does not admit the allegation, or whenever any member is himself in doubt whether or not he has become disqualified for office under section 14 or 16 such member or any other member may, and the executive authority shall, on the direction of the panchayat or of the Director, apply to Government whose decision shall be final.

(2) Pending such decision, the member shall be entitled to act as if he were not disqualified.

PRESIDENT AND VICE-PRESIDENT

President and vice-president of a panchayat and their term of office.

18. (1) Every panchayat shall elect one of its members to be its president and another member to be its vice-president in accordance with such rules as may be prescribed. If at an election held under this sub-section no president or vice-president is elected, a fresh election shall be held.

(2) The president or vice-president shall cease to hold office as such:—

(a) in every case, on the expiry of his term of office as a member or on his otherwise ceasing to be a member; and

(b) in the case of the vice-president on his election as president.

19. Any member other than the president and any vice-president may resign by giving notice to the president; the president may resign by giving notice to the panchayat. Such resignation shall take effect, in the case of a member or vice-president, from the date on which it is received by the president and in the case of a president, from the date on which it is placed before a meeting of the panchayat.

Power of president, vice-president or member to resign.

20. The president shall—

- (a) make arrangements for the election of the vice-president ;
- (b) convene the meetings of the panchayat ;
- (c) perform all the duties and exercise all the powers specially imposed or conferred on the president by this Act.

Functions of the president.

21. (1) When the office of the president is vacant, the vice-president shall exercise the functions of the president until a new president is declared elected.

Devolution and delegation of president's functions and filling up of vacancies in the office of the president.

(2) If the president has been continuously absent from jurisdiction for more than fifteen days or is incapacitated, his functions during such absence or incapacity shall, subject to such rules as may be prescribed, devolve on the vice-president.

(3) When the office of the president is vacant and there is either a vacancy in the office of the vice-president or the vice-president has been continuously absent from jurisdiction for more than fifteen days or is incapacitated, the functions of the president shall devolve upon a member of the panchayat appointed by the Director in this behalf.

The member of the panchayat so appointed (who shall be styled the acting president) shall perform the functions of the president subject to such restrictions and conditions as may be prescribed, until a new president or vice-president is declared elected and assumes office, or the president or the vice-president returns to jurisdiction or recovers from his incapacity, as the case may be.

(4) Any vacancy in the office of president shall be reported by the vice-president within the prescribed time to the election authority, and such authority shall appoint a person not being a member of the panchayat, to convene a meeting of the panchayat for election of its president. The person so appointed shall preside at the meeting so convened and have all the powers of the president in relation thereto, except that he shall not have the right to vote at the election.

(5) Subject to such rules as may be prescribed, the president may by an order in writing, delegate any of his functions, with such restrictions and conditions as may be specified in the order, to the vice-president or in case there is a vacancy in the office of vice-president or the vice-president has been continuously absent from jurisdiction for more than fifteen days or is incapacitated, to any member.

MEMBERS

Rights of individual members.

22. (1) Any member may call the attention of the president to any neglect in the execution of any work in the panchayat area, to any waste of panchayat property or to the wants of any locality, and may suggest any improvements which may appear desirable.

(2) Every member shall have the right to move resolutions and to interpellate the president on matters connected with the administration of the panchayat subject to such rules as may be prescribed.

(3) Every member shall have access during office hours to the records of the panchayat after giving due notice to the president:

Provided that the president may, for reasons given in writing, forbid such access.

No member to receive remuneration.

23. No member shall receive or be paid from the funds at the disposal or under the control of the panchayat, any salary or other remuneration for services rendered by him in any capacity whatsoever.

THE PANCHAYAT OFFICER

Panchayat Officer.

24. (1) Government may, if they deem necessary, appoint a whole-time panchayat officer for any panchayat or group of panchayats.

(2) The panchayat or panchayats shall pay the panchayat officer such salary and allowances as may from time to time be fixed by Government.

(3) Government shall have the power to regulate the methods of recruitment, conditions of service, pay and allowances, and discipline and conduct of panchayat officers appointed under sub-section (1).

(4) The panchayat officer shall—

- (a) have the right to attend meetings of the panchayat or of any committee thereof and take part in the discussions thereat, but without the right to move any resolution or to vote;
- (b) attend any meeting of the panchayat or any committee thereof, if required to do so by the president.

POWERS AND DUTIES OF THE EXECUTIVE AUTHORITY

Executive authority.

25. (1) The executive authority of the panchayat shall—

- (a) carry into effect the resolutions of the panchayat;
- (b) arrange to prepare estimates of sanctioned works;
- (c) see to the timely execution of works according to the details of the estimates;
- (d) see that funds provided for the several works are usefully and economically utilised;

- (e) submit the prescribed periodical estimates, completion bills, etc., in time;
- (f) see that the prescribed registers, files, etc., of the panchayat office are kept in proper order and up-to-date;
- (g) control all the officers and servants of the panchayat; and
- (h) discharge all the duties and exercise all the powers specifically imposed or conferred on the executive authority by or under this Act; and subject to all restrictions and conditions imposed by or under this Act exercise the executive power for the purpose of carrying out the provisions of this Act and be directly responsible for the due fulfilment of the purposes of this Act.

(2) In the case of a panchayat or a group of panchayats for which a panchayat officer is appointed, the president shall have full access to all records of the panchayat and no official correspondence between the panchayat and the Government or the Director shall be conducted except through the president. The president shall be bound to transmit communications addressed through him by the panchayat officer to the Government or the Director or by the Government or the Director to the panchayat officer.

26. The executive authority may, in cases of emergency subject to such rules as may be prescribed, direct the execution of any work or the doing of any act which requires the sanction of the panchayat, and the immediate execution or the doing of which is, in his opinion, necessary for the service or safety of the public, and may direct that the expenses of executing such work or doing such act shall be paid from the funds at the disposal of the panchayat: Emergency powers of the executive authority.

Provided that :—

- (a) he shall not act under this section in contravention of any order of the panchayat prohibiting the execution of any particular work or the doing of any particular act, and
- (b) he shall report the action taken under this section and the reasons therefor to the panchayat at its next meeting.

ESTABLISHMENT

27. (1) Subject to such rules as may be prescribed, the Director shall fix, and may alter, the number, designations and grades of, and the salaries, fees and allowances payable to the officers and servants of every panchayat, other than the panchayat officer. Establishment.

(2) Two or more panchayats may, subject to such rules as may be prescribed, and shall if so required by any authority empowered in this behalf by rules, appoint the same officer as a servant to exercise or discharge any powers or duties of a similar nature for both or all of them.

(3) All appointments and service in the panchayat shall be subject to such rules and conditions as may be prescribed.

PROCEDURE

Meetings of the panchayat.

28. (1) Every meeting of the panchayat shall be presided over by the president, in his absence, by the vice-president and in the absence of both the president and the vice-president, by a member chosen by the meeting to preside for the occasion.

(2) The president shall preserve order and decide all points of order arising at or in connection with meetings. There shall be no discussion on any point of order and the decision of the president on any point of order shall, save as otherwise expressly provided in this Act, be final.

(3) A vice-president or member presiding for the occasion shall, for that meeting and during the period that he presides over it, have all the powers of the president.

(4) A copy of the minutes of the proceedings at every meeting of a panchayat as well as of all minutes of dissent in respect of such proceedings received from any member present at the meeting within forty-eight hours of the close thereof shall be submitted by the president within three days of the date of the meeting to the Director :

Provided that Government may direct that such minutes shall also be submitted either generally or in any specified classes of cases, to any officer specified by them in this behalf.

Power of panchayat to call for records.

29. A panchayat may require the executive authority to produce any document which is in his custody and he shall, subject to such rules as may be prescribed, comply with every such requisition.

Conduct of meetings of panchayats.

30. The proceedings of every panchayat and of all committees thereof shall be governed by such rules as may be prescribed. Such rules may provide for preventing any member or president or any member or chairman of a committee from voting on, or taking part in the discussion of, any matter in which, apart from its general application to the public, he has any direct or indirect pecuniary interest, whether by himself or through some other person, or from being present or presiding at any meeting of the panchayat or of the committee during the discussion of any such matter.

Appointment of joint committees.

31. (1) A panchayat may, and if also required by Government shall, join with one or more than one other local authority in constituting a joint committee for any purpose for which they are jointly responsible.

(2) The constitution, powers and procedure of a joint committee and the method of settling differences of opinion arising in connection with the committee between the local authorities concerned shall be in accordance with such rules as may be prescribed.

32. (1) Every panchayat shall submit to the Director a report on its administration for each year as soon as may be after the close of such year and not later than the prescribed date, in such form and with such details as may be prescribed.

Administration report.

(2) The report shall be prepared by the executive authority and the panchayat shall consider it and forward the same to the Director with its resolutions thereon, if any.

(3) The Director shall submit to Government a general report on the administration of panchayats in the State during the year.

VALIDATION OF PROCEEDINGS

33. No act of a panchayat or of a committee thereof or of any person acting as president, vice-president, chairman or member of such panchayat or committee shall be deemed to be invalid by reason only of a defect in the establishment of such panchayat or committee, or on the ground that the president, vice-president chairman or any member of such panchayat or committee was not entitled to hold or continue in such office by reason of any disqualification or by reason of any irregularity or illegality in his election or appointment, or by reason of such act having been done during the period of any vacancy in the office of the president, vice-president, chairman or member of such panchayat or committee.

Acts of panchayats, etc., not to be invalidated by informality, vacancy, etc.

CONTROL

34. (1) Government or the Director with their approval may appoint such officers as may be required for the purpose of inspecting or superintending the operations of all or any of the panchayats established under this Act.

Inspecting and superintending officers and their powers.

(2) Any officer appointed under sub-section (1) or any other officer or person whom Government may empower in this behalf may enter on and inspect, or cause to be entered on and inspected—

- (a) any immovable property or any work in progress under the control of any panchayat;
- (b) any school, hospital, or dispensary, vaidyasala, vaccination station, chathram or other institution maintained by, or under the control of any panchayat and any records, registers or other documents kept in such institution;
- (c) the office of the panchayat and any record, registers or other documents kept therein.

(3) Panchayat authorities and panchayat officers and servants shall be bound to afford to the officers and persons aforesaid such access at all reasonable times, to panchayat property or premises and to all documents as may, in the opinion of such officers or persons, subject to such rules as may be prescribed, be necessary to enable them to discharge their duties under sub-section (1) or sub-section (2), as the case may be.

(4) The Director or any other officer authorised by Government in this behalf may—

- (a) direct the panchayat, with the approval of Government, to make provision for and to execute or provide any public work or amenity ;
- (b) call for any record, register or other documents in the possession, or under the control, of any panchayat or executive authority;
- (c) require any panchayat or executive authority to furnish any return, plan, estimate, statement, account or statistics;
- (d) require any panchayat or executive authority to furnish any information or report on any matter connected with such panchayat; and
- (e) record in writing for the consideration of any panchayat or executive authority any observations in regard to its or his proceedings or duties.

Power to suspend or cancel resolution, etc., under Act.

35. The Director may, by order in writing—

- (i) suspend or cancel any resolution passed, order issued, or licence or permission granted; or
- (ii) prohibit the doing of any act which is about to be done or is being done in pursuance of or under colour of this Act, if, in his opinion,—
 - (a) such resolution, order, licence, permission or act has not been legally passed, issued, granted or authorised; or
 - (b) such resolution, order, licence, permission or act is in excess of the powers conferred by this Act or any other law or is an abuse of such powers; or
 - (c) the execution of such resolution or order, or the continuance in force of such licence or permission or the doing of such act is likely to cause danger to human life, health or safety, or is likely to lead to a riot or an affray, or is otherwise open to objection on public grounds.

(2) The Director shall, before taking action under subsection (1) on any of the grounds referred to in clauses (a) and (b) thereof, give the authority or person concerned an opportunity for explanation.

Emergency powers of Director.

36. Subject to such control as may be prescribed, the Director or any other officer authorised by Government in this behalf may, in cases of emergency, direct or provide for the execution of any work, or the doing of any act which a panchayat or executive authority is empowered to execute or do, and the immediate execution or doing of which is, in his opinion, necessary for the safety of the public, and may direct that the expenses of executing such work or of doing such act shall be met from the funds at the disposal of the panchayat.

37. The administration by a panchayat of any undertaking for the generation, transmission, supply, or use of electrical energy shall be subject to such control as may be prescribed not inconsistent with the Electricity Act in force for the time being, the rules made under that Act and the terms of the licence granted under it to the panchayat.

Control over electrical undertaking of panchayat.

38. When a panchayat or its executive authority has made default in performing any duty imposed by or under this or by any other Act, the Director or any officer authorised by Government in this behalf may, by order in writing, fix a period for the performance of such duty.

Power to take action in default of a panchayat or executive authority.

(2) If such duty is not performed within the period so fixed the Director or such officer may appoint some person to perform it, and may direct that the expenses of performing it shall be met from the funds at the disposal of the panchayat.

(3) If expenses which have been directed under sub-section (2) to be paid from the panchayat fund are not so paid the Director, with the previous sanction of Government, may make an order directing the person having the custody of the panchayat funds to pay it in priority to any other charge against such funds except charges for the service of authorised loans.

(4) Such person shall, so far as the funds to the credit of the panchayat admit, be bound to comply with such order.

39. (1) Government may, by notification in the Gazette, and with effect from a date to be specified therein, remove any president, or vice-president who, in their opinion, wilfully omits or refuses to carry out or disobeys the provisions of this Act or any rules, or lawful orders issued thereunder, or abuses the powers vested in him.

Removal of president, vice-president or member.

(2) Government may, by like notification and with effect from a date to be specified therein, remove any member who, in their opinion, is guilty of any misconduct in the discharge of his duties as such member.

(3) Government shall, when they propose to take action under sub-section (1) or sub-section (2), give the president, vice-president or member concerned an opportunity for explanation and the notification issued shall contain a statement of the reasons for the action taken.

(4) Government may cancel any notification issued under sub-section (1) or sub-section (2) and may, pending a decision on the question of such cancellation, postpone the date specified in such notification.

(5) Any person in respect of whom a notification has been issued under sub-section (1) or sub-section (2), removing him from the office of the president, vice-president or member shall, unless the notification is cancelled under sub-section (4), be ineligible for election or appointment to, or holding any of those offices until the date on which notice of the next ordinary elections is published in the prescribed manner or

the expiry of six months from the date specified in such notification as postponed by the order, if any, issued under sub-section (4), whichever is earlier.

Motion of
no confidence
in president
or vice-presi-
dent.

40. (1) Subject to the provisions of this section, a motion expressing want of confidence in the president or in the vice-president may be made in accordance with the procedure laid down herein.

(2) Written notice of intention to make the motion, in such form as may be fixed by Government, signed by such number of members as shall constitute not less than one-half of the sanctioned strength of the panchayat, together with a copy of the motion which is proposed to be made, shall be delivered by any two members signing the notice in person together, to the Director.

(3) The Director or any other officer authorised by him in this behalf shall then convene a meeting for the consideration of the motion to be held at the office of the panchayat at a time appointed by him which shall not be later than thirty days from the date on which the notice under sub-section (2) was delivered to him. He shall give to the members notice of not less than fifteen clear days of such meeting and of the time appointed therefor.

(4) The Director or the authorised officer shall preside at the meeting convened under this section, and no other person shall preside thereat. If within half an hour after the time appointed for the meeting, the Director or the authorised officer is not present to preside at the meeting, the meeting shall stand adjourned to a time to be appointed and notified to the members by the Director or the authorised officer under sub-section (5).

(5) If the Director is unable to preside at the meeting and no officer has been authorised by him, he may after recording his reasons in writing adjourn the meeting to such other time as he may appoint. The date so appointed shall not be later than thirty days from the date appointed for the meeting under sub-section (3). Notice of not less than seven clear days shall be given to the members of the time appointed for the adjourned meeting.

(6) Save as provided in sub-sections (4) and (5) a meeting convened for the purpose of considering a motion under this section shall not, for any reason, be adjourned.

(7) As soon as the meeting convened under this section has commenced, the Director or the authorised officer shall read to the panchayat the motion for the consideration of which it has been convened, and declare it to be open for debate.

(8) No debate on any motion under this section shall be adjourned.

(9) Such debate shall automatically terminate on the expiry of two hours from the time appointed for the commencement of the meeting, if it is not concluded earlier. Upon the conclusion of the debate or upon the expiry of the said

period of two hours, as the case may be, the motion shall be put to the vote of the meeting. No speech by any member shall exceed fifteen minutes in duration and the last fifteen minutes shall in any case be allowed to the president or the vice-president, as the case may be, for his reply against the motion.

(10) The Director or the authorised officer shall not speak on the merits of the motion, nor shall he be entitled to vote thereon.

(11) A copy of the minutes of the meeting together with a copy of the motion and the result of the voting thereon shall forthwith on the termination of the meeting be forwarded by the Director or the authorised officer to Government.

(12) If the motion is carried with the support of not less than three-fifth of the sanctioned strength of the panchayat and if the president or the vice-president, as the case may be, does not resign his post within two days after the passing of the motion, Government shall, by notification, remove him from office.

(13) If the motion is not carried by such a majority as aforesaid or if the meeting cannot be held for want of a quorum, no notice of any subsequent motion expressing want of confidence in the same president or vice-president shall be received until after the expiry of six months from the date of the meeting.

(14) No notice of motion under this section shall be received within six months of the assumption of office by a president or vice-president, as the case may be.

41. (1) If in the opinion of Government, a panchayat is not competent to perform, or persistently makes default in performing the duties imposed on it by law, or exceeds or abuses its powers, Government may by notification direct that the panchayat shall be dissolved and re-constituted on such date as Government may fix in that behalf; or Government may, if they think necessary, supersede the panchayat for a period not exceeding two years from a specified date:

Dissolution and supersession of panchayats.

Provided as follows :—

(a) for the purpose of completing the elections to a panchayat which has been dissolved Government may, in their discretion, from time to time extend the time fixed by them under this sub-section for its re-constitution;

(b) Government shall not supersede a portion only of the panchayat.

(2) Before publishing a notification under sub-section (1) Government shall communicate to the panchayat concerned the grounds on which they propose to do so, fix a reasonable period for the panchayat to show cause against the proposal and consider its explanations or objections, if any:

Provided that where the panchayat has disobeyed an order issued under section 35, Government shall not be bound to follow the procedure laid down in this sub-section.

(3) On the date fixed for the dissolution or supersession of a panchayat under sub-section (1), all its members as well as its president and vice-president shall forthwith be deemed to have vacated their offices as such.

(4) During the interval, if any, between the dissolution and the re-constitution of a panchayat or during the period of its supersession, as the case may be, all or any of the powers and duties of the panchayat and its president (including his powers and duties, if any, as executive authority) may be exercised and discharged, as far as may be and to such extent as Government may determine, by the Director or such other person or persons as may be appointed by Government in this behalf.

(5) The members of a reconstituted panchayat shall enter upon their offices on the date fixed for its re-constitution and their term of office shall expire in such year and on such date as Government may fix. The year so fixed shall be either the year in which the next ordinary elections or the year in which the ordinary elections immediately succeeding such elections are to be held. The date so fixed shall correspond to the date fixed under sub-section (1) of section 9.

(6) When a panchayat is dissolved or superseded under this section, Government, until the date of the re-constitution thereof and the re-constituted panchayat thereafter, shall be entitled to all the assets and be subject to all the liabilities of the panchayat as on the date of the dissolution or supersession and on the date of the re-constitution respectively.

Powers of officers taking action on behalf of or in default of panchayat and liability of panchayat fund.

42. When the Director or any person appointed by Government lawfully takes action on behalf of or in default of the panchayat under this Act, he shall have all such powers as are necessary for the purpose, and shall be entitled to the same protection under this Act as the panchayat or its officers or servants whose powers he is exercising and compensation shall be recoverable from the panchayat fund by any person suffering damage from the exercise of such powers to the same extent as if the action had been taken by such panchayat or its officers or servants.

CHAPTER III

FUNCTIONS, POWERS AND PROPERTY OF PANCHAYATS

Duty of panchayat to provide for certain matters.

43. Subject to such rules as may be prescribed, it shall be the duty of a panchayat, within the limits of the funds at its disposal, to make reasonable provision for carrying out the requirements of the panchayat area in respect of the following matters, namely :—

- (a) construction, repair and maintenance of all roads other than those under the Public Works Department and of all bridges, culverts, road dams and causeways on such roads ;
- (b) preservation intact of all poramboke paths, lanes and canals useful for purposes of communication, cattle grazing grounds and other communal porambokes;
- (c) the carrying out of petty irrigation works;

- (d) sinking and repairing of wells, the excavation, repair and maintenance of ponds or tanks for supply of water for drinking, washing and bathing purposes and the construction of bathing ghats;
- (e) lighting of all public roads and public places, wherever necessary ;
- (f) construction of drains and the disposal of drainage water and sullage;
- (g) cleaning of streets, the removal of rubbish heaps, jungle growth and prickly pear, the filling in of disused wells, insanitary ponds, pools, ditches, pits or other hollows, and other improvements of the sanitary condition of the panchayat area;
- (h) provision for public latrines and arrangements to cleanse latrines whether public or private ;
- (i) opening and maintenance of burial and burning grounds ;
- (j) preventive and remedial measures connected with epidemics, including vaccination, which may be ordered by Government to be carried out by the panchayat.

44. Subject to such rules as may be prescribed, a panchayat shall also make arrangements for carrying out the requirements of the panchayat area in respect of the following matters, namely :—

Power of panchayat to provide for certain other matters.

- (a) planting and preservation of groves and roadside trees ;
- (b) opening and maintenance of public markets;
- (c) control of fairs and festivals ;
- (d) control of offensive and dangerous trades;
- (e) control of cattle pounds ;
- (f) opening and maintenance of public landing places; halting places and cart-stands and public cattle sheds ;
- (g) opening and maintenance of public slaughter-houses;
- (h) registration of births and deaths ;
- (i) improvement of agriculture and agricultural stock by maintaining stud-bulls and prevention of cattle mortality;
- (j) promotion of co-operative activities in the direction of cottage industries, distribution, marketing, etc.;
- (k) primary education;
- (l) the relief of the poor or the sick;
- (m) opening and maintenance of reading rooms and libraries;
- (n) restoration and improvement of minor irrigation works ;
- (o) control of rest houses, campsheds and other institutions or property belonging to it or under its control;

- (p) provision of community radio service ;
- (q) maintenance of demonstration farms, stores of seeds and agricultural implements, and manure depots;
- (r) increased food production ;
- (s) provision for medical aid, midwifery service, etc.;
- (t) other measures of public utility calculated to promote the safety, health, comfort or convenience of the inhabitants of the panchayat area.

Exercise of functions of Irrigation Board.

45. Government may empower, subject to such rules and conditions as may be prescribed, any panchayat to exercise the powers and discharge the functions of an Irrigation Board under the Irrigation Act for the time being in force.

Institutions of works may be transferred to panchayat.

46. Subject to such rules as may be prescribed and to such conditions as may be agreed upon, any person or local authority or Government may, with the consent of the panchayat, make over to it the management of any institution or the execution or maintenance of any work or the performance of any duty within the panchayat area.

Government's power to add to functions of panchayat.

47. Government may authorise, subject to such rules and conditions as may be prescribed, any panchayat, by general or special order, to exercise any power or discharge any functions other than those specified in sections 43 to 45.

Limitation of power to accepting property in trust.

48. A panchayat may, with the previous sanction of Government, accept trusts relating exclusively to the furtherance of any purpose to which its funds may be applied.

Vesting of public roads and their appurtenances in panchayat.

49. (1) All public roads in any panchayat area which are not under the control of the Public Works Department, shall together with all pavements, stones and other things provided therefor, all sewers, drains, drainage works, tunnels and culverts, whether made at the cost of the panchayat fund or otherwise, in, alongside or under such roads and all works, materials and things appertaining thereto be under the control and management of the panchayat.

(2) Government may, by notification, exclude from the operation of this Act any such public road, sewer, drain, drainage work, tunnel or culvert and may also modify or cancel such notification.

Power of panchayats for carrying out their functions.

50. (1) A panchayat shall have power to do all acts necessary for and incidental to the carrying out of the functions entrusted or delegated to it, and in particular and without prejudice to the generality of the foregoing power—

- (a) to require by notice the owner or occupier of any land or building which is a nuisance to the neighbourhood on account of—
 - (i) its insanitary condition, or
 - (ii) the collection of any drainage, filth or stagnant water thereon, or

- (iii) the existence of noxious vegetation thereon to take **such action as the panchayat may deem necessary to abate the nuisance within a reasonable period to be specified in such notice;**
 - (b) to prohibit the use of the water of any stream, well, pond or other excavation believed to be dangerous to public health; and
 - (c) to regulate or prohibit the watering of cattle or bathing or washing in any stream, well, pond or other excavation reserved for drinking water.
- (2) If any work required to be done under sub-section (1) is not executed within the period specified in the notice, the panchayat may itself cause such work to be executed or done and the cost incurred may be recovered from the owner or occupier in the same manner as if the same were taxes due to the panchayat.

51. Any member, officer or servant of a panchayat may **enter into or upon any building or land with or without assistants or workmen in order to make any inspection or execute any work for any of the purposes of this Act.** Power of entry.

Provided that—

- (a) no such entry shall be made between sunset and sunrise;
- (b) unless the entry shall be made with the consent of its occupier no dwelling house shall be so entered without giving reasonable previous notice signed by the executive authority or by a person duly authorised by him in this behalf of the intention to make such entry; and
- (c) due regard shall be had in making such entry to the social and religious usages of the occupants of the premises entered.

CHAPTER IV

PANCHAYAT FUND

52. For every panchayat there shall be a panchayat fund **which shall be utilised by the panchayat to meet charges in connection with its duties under this Act.** Panchayat fund.

- 53.** The following shall be credited to the panchayat fund: Income of panchayat fund.
- (1) panchayat rate levied under section 56;
 - (2) the cost of execution of works recovered under section 50 ;
 - (3) all fines realised in prosecutions for breaches of by-laws or rules made under this Act;
 - (4) all other sums ordered by any court to be placed to the credit of the panchayat fund;
 - (5) income from or sale proceeds of all properties vested in the panchayat;

- (6) contribution made by Government, a local authority, or any person; and
- (7) such other sums as may be assigned to the panchayat fund by any general or special order of Government.

Budget
Estimate.

54. The panchayat shall, at such time or times and in such form and to such authority as Government may direct, prepare and submit a budget showing the probable receipts and the expenditure which it is proposed by the panchayat to incur during the ensuing year, and the terms in respect of which it is proposed to incur such expenditure; and from time to time also furnish a supplemental estimate providing for any modifications which it may deem advisable to make in the distribution of the amount to be raised and expended in the year then current for the purpose of this Act.

(2) Government or any officer of Government empowered in this behalf shall, after such revision as may be deemed fit, pass the budget for each year and the panchayat shall abide by the budget so passed.

Contribution
of Govern-
ment to the
panchayat
fund.

55. (1) Government shall contribute to the panchayat fund an amount equal to the amount collected by the panchayat during a particular year by levying rates, taxes and other fees the maximum being, however, limited to Rs. 2,000.

(2) For the purpose of determining the amount payable by Government under this section, Government may also take into account contributions made to the panchayat by a local authority or by any person which have been credited to the panchayat fund.

Explanation.—"Contribution" includes contribution by way of money or by way of manual labour and in the latter case, the money value of such contributions will be the value assessed thereon by Government from time to time.

Imposition
of cess, tax,
etc

56. Any panchayat—

- (a) after observing such preliminary procedure and rules as may be prescribed ;
- (b) subject to such bye-laws as may be framed by the panchayat; and
- (c) subject to the previous sanction of Government may impose, at such rates not exceeding the maxima prescribed, all or any one or more of the following :—

(1) a cess on land other than any land or class of lands which Government may, by notification in the Gazette, exempt;

(2) any rate, tax, cess or any licence or other fee for the discharge of the duties under this Act.

Recovery of
arrear of cess,
fee, etc.

57. Any arrear of cess, rate, tax or fee imposed under the Act shall be recoverable as an arrear of land revenue under the Revenue Recovery Act for the time being in force.

58. No objection shall be taken to any assessment, nor shall the liability of any person to be assessed be questioned otherwise than in accordance with the provisions of this Act or the rules made thereunder. Objection in respect of liability to assessment.

59. Government shall appoint auditors of the accounts of receipts and expenditure of such panchayat fund. Such auditors shall be deemed to be public servants within the meaning of section 15 of the Travancore or Cochin Penal Code. Appointment of auditors of accounts.

60. Government shall be entitled to recover in the manner provided in sub-section (3) of section 38 of this Act or by suit any loan or advance made to any panchayat for any purpose to which its funds may be applied under this Act. Recovery of loans and advances made by Government.

61. The following buildings and lands shall be exempted from cess, rate or tax leviable under section 56 :— Exemption.

- (a) places set apart for public worship and either actually so used or used for no other purpose;
- (b) buildings which are attached to places of public worship and are used for residential or other purposes connected therewith ;
- (c) choultries for the occupation of which no rent is charged and choultries the rent charged for the occupation of which is used exclusively for charitable purposes;
- (d) buildings used for educational purposes including hostels, public buildings and places used for the charitable purpose of sheltering the destitute or animals, and libraries and play-grounds which are open to the public;
- (e) such ancient monuments protected under the Ancient Monuments Protection Act, for the time being in force, or parts thereof as are not used as residential quarters or as public offices;
- (f) charitable hospitals and dispensaries;
- (g) burial and burning grounds;
- (h) building or land belonging to the panchayat;
- (i) such property of Government not being buildings as may from time to time be notified by Government in the Gazette;
- (j) any land or building exempted by Government by notification in the Gazette.

Explanation.—The exemption granted under this section shall not extend to residential quarters attached to schools and colleges not being hostels or to residential quarters attached to hospitals, dispensaries and libraries.

62. Government, and with the sanction of Government he panchayat, may exempt any person or class of persons wholly or in part, from the payment of any tax, cess or rate. But nothing in this section shall be deemed to authorise the exemption of any person solely on the ground that he is a member of the panchayat. Power to exempt from tax, cess or rate.

Explanation.—In this section “person” includes an institution, firm, company, corporation, etc.

Power to write off irrecoverable taxes, etc.

63. The panchayat may, with the previous sanction of the Director and subject to such rules as may be prescribed write off any tax, cess, rate, fee or other amount whatsoever due to it, whether under a contract or otherwise or any sum payable in connection therewith, if in its opinion such tax, cess, rate, fee, amount or sum is irrecoverable.

CHAPTER V

PUBLIC SAFETY, CONVENIENCE AND HEALTH

Public Water-course, Springs, etc.

Vesting of water-works in panchayats.

64. Subject to such rules as may be prescribed, public tanks and wells constructed and maintained out of Government funds shall be subject to the control of the panchayat :

Provided that nothing contained in this section shall apply to any work which is, or is connected with, a work of major irrigation or to adjacent land appertaining to any such work.

Sanitary arrangements in places of pilgrimage, etc.

Sanitary arrangement in places of pilgrimage, etc.

65. Where a temple, mutt, church or mosque or any place of public worship or instruction or any place which is used for holding fairs, festivals or for other like purposes is situated within the limits of a panchayat area and attracts either throughout the year or on particular occasions a large number of persons, such special arrangements as regards public health, safety or convenience, as may be considered necessary by the Director, shall be made by the panchayat.

Roads

Prohibition against obstructions in or over public roads, etc.

66. No person shall except as permitted by rules made under this Act and except in accordance with the conditions imposed by any licence made requisite by such rules,—

- (a) build any wall or erect any fence or other obstruction or projection or make any encroachment whatsoever whether permanent or temporary in or over any public road;
- (b) make any hole or deposit any matter in or upon any public road;
- (c) erect any building over any sewer or any part thereof;
- (d) plant any tree on any public road or other property under the control of the panchayat;
- (e) fell, remove, destroy, lop or strip bark or leaves from, or otherwise damage, any tree which is growing on any such public road or other property and the right to which has not been established by such person as vesting in or belonging to him.

Dangerous tanks, wells and pruning of hedges and trees

67. (1) If any tank, pond, well, hole, stream, dam, bank or other place appears to the executive authority to be, for want of sufficient repair, protection or enclosure, dangerous to the passers-by or to persons living in the neighbourhood, the executive authority may by notice require the owner to fill in, remove, repair, protect or enclose the same so as to prevent any danger therefrom.

Precautions in case of dangerous tanks, wells, holes, etc.

(2) If immediate action is necessary, he shall, before giving such notice or before the period of notice expires, himself take such temporary measures, as he thinks fit to prevent danger, and the cost of doing so shall be recoverable from the owner in the same manner as if the same were taxes due to the panchayat.

68. The executive authority may without notice—

Pruning of hedges and trees.

- (a) trim or prune any hedges bordering on a public street, so that it may not exceed such height from the level of the adjoining roadway as the executive authority may determine; or
- (b) cut and trim any hedges or trees overhanging the said street and obstructing it or the view of traffic or causing it damage; or
- (c) remove fallen trees on public roads and waterways which obstruct traffic.

Markets

69. (1) All public markets within a panchayat area shall be under the control and management of the panchayat.

Public market.

(2) The panchayat may with the sanction of Government provide places for use as public markets and may with like sanction close any such market or part thereof.

(3) Subject to such rules as may be prescribed the panchayat may levy any one or more of the following fees in any public market at such rates not exceeding the maxima as may be prescribed—

- (a) fees for the use of or for the right to expose goods for sale in such market;
- (b) fees for the use of shops, stalls, pens or stands in such market;
- (c) fees on vehicles or pack animals carrying, or on persons bringing, any goods for sale in such market;
- (d) fees on animals brought for sale into or sold in such market; and
- (e) licence fees on brokers, commission agents, weighmen and measurers practising their calling in such market.

70. No person shall without the permission of the executive authority or, if the rents and fees have been farmed out, the farmer, sell or expose for sale any animal or article within any public market.

Executive authority's control over public market.

Private
market.

71. (1) No person shall open a new private market or continue to keep open a private market unless he obtains from the panchayat a licence to do so. Such licence shall be issued only with the approval of the Director on payment of the fees prescribed by Government.

(2) Application for such licence shall be made by the owner of the place in respect of which the licence is sought, not less than six weeks before such place is opened as a market or before the commencement of the year for which the licence is sought, as the case may be.

(3) (a) The panchayat shall, as regards private markets already lawfully established, and may at its discretion as regards new private markets, grant the licence applied for, subject to such conditions as the panchayat may think fit as to supervision and inspection, sanitation and water supply, weights and measures to be used, rents and fees to be charged, and such other matters as may be prescribed; or the panchayat may refuse to grant such licence for any new private market.

(b) The panchayat may modify the conditions of the licence to take effect from a specified date.

(c) The panchayat may at any time suspend any licence granted under clause (a) for breach of the conditions thereof for a period not exceeding thirty days and may with the approval of the Director cancel any such licence.

(d) When a licence is granted, refused, suspended, cancelled or modified under this section the panchayat shall cause a notice of such grant, refusal, suspension, cancellation or modification to be posted in some conspicuous place at or near the entrance to the place in respect of which the licence was sought or had been obtained.

(e) Every licence granted under this section shall expire at the end of the year.

(4) A fee not exceeding fifteen per cent. of the gross income of the owner from the market in the preceding year shall be charged by the panchayat for a licence issued under subsection (2).

(5) The panchayat or any officer duly authorised by it may close any private market which is unlicensed or the licence for which has been suspended or cancelled or which is held or kept open contrary to the provisions of this Act.

Duty of expelling lepers etc., from markets and power to expel disturbers.

72. The person in charge of a market shall prevent the entry therein or expel therefrom any person suffering from leprosy, in whom the process of ulceration has commenced or from any contagious or infectious disease and he may expel therefrom any person who is creating a disturbance therein.

Prohibition of sale in public roads.

73. The executive authority may, with the sanction of the panchayat, prohibit by public notice or licence or regulate the sale or exposure for sale of any animals or articles in or upon any public road or place.

74. If any question arises as to whether any place is a market or not the panchayat shall make a reference thereon to Government through the Director and the decision of Government on the question shall be final.

Decision of
disputes as to
whether
places are
markets.

Cart-stands

75. Subject to such rules as may be prescribed the panchayat may—

Public cart-stands.

- (a) provide public landing places, halting places and cart-stands (which last expression includes stands for animals and vehicles of any description including motor vehicles) and levy fees for their use; and
- (b) where any such place or stand has been provided, prohibit the use for the same purpose by any person, within such distance thereof of any public place on the sides of any public road as the panchayat may, subject to the control of the Director, direct.

76. (1) No person shall open a new private cart-stand or continue to keep open a private cart-stand unless he obtains from the panchayat a licence to do so. Such licence shall be renewed every year.

Private cart-stands.

(2) The panchayat shall, as regards private cart-stands already lawfully established, and may at its discretion as regards new private cart-stands, grant the licence applied for subject to such conditions as the panchayat may think fit as to supervision and inspection, conservancy and such other matters as may be prescribed; or the panchayat may refuse to grant such licence for any new cart-stand.

(3) The panchayat may modify the conditions of the licence to take effect from a specified date.

(4) The panchayat may at any time suspend or cancel any licence granted under sub-section (2) for breach of the conditions thereof.

(5) The panchayat may levy on every grant or renewal of a licence under this section such fees not exceeding the maxima as may be prescribed.

(6) Every licence granted under this section shall expire at the end of the year.

Slaughter houses

77. (1) A panchayat may provide places for use as public slaughter-houses and charge such rents and fees for their use not exceeding the maxima as may be prescribed.

Public slaughter-houses.

(2) The panchayat may farm out the collection of such rents and fees for any period not exceeding three years at a time and on such terms and conditions as it may think fit.

78. (1) The owner of any place within the panchayat area which is used as a slaughter-house for the slaughtering of animals or for the skinning or cutting up of any carcasses,

Licence for slaughter-houses.

shall in the first month of every year or in the case of a place to be newly opened one month before the opening of the same apply to the executive authority for a licence.

(2) The executive authority may, by an order and subject to such restrictions and regulations as to supervision and inspection as he thinks fit, grant or refuse to grant such licence.

(3) Nothing contained in this section shall apply to the slaughter of animals in any place in the panchayat area on occasions of festivals and ceremonies.

Slaughter of animals for sale as food.

79. No person shall slaughter within the panchayat area except in a public or licensed slaughter-house any cattle, horse, sheep, goat or pig for sale as food or skin or cut up any carcass without or otherwise than in conformity with a licence from the executive authority or dry or permit to be dried any skin in such a manner as to cause a nuisance.

Industries

Purpose for which places may not be used without a licence.

80. (1) The panchayat may, with the previous approval of the Director, notify that no place within the limits of the panchayat area shall be used for any of the purposes specified in the rules made in this behalf being purposes which, in the opinion of Government, are likely to be offensive or dangerous to human life or health or property, without a licence from the executive authority and except in accordance with the conditions specified therein:

Provided that no such notification shall take effect until sixty days from the date of its publication.

(2) The owner or occupier of every such place shall, within thirty days of the publication of such notification, apply to the executive authority for a licence for the use of such place for such purpose.

(3) The executive authority may by an order and under such restrictions and conditions as he thinks fit grant or refuse to grant such licence.

(4) Every such licence shall expire at the end of the year unless for special reasons the executive authority considers it should expire at an earlier date when it shall expire at such earlier date as may be specified therein.

(5) Applications for renewal of such licences shall be made not less than thirty days before the end of every year and application for licences for places to be newly opened shall be made not less than thirty days before they are opened.

Places of public entertainments

Prohibition of cinematograph and dramatic performances except in licensed premises.

81. No exhibition of pictures or other optical effects by means of a cinematograph or similar apparatus for the purposes of which inflammable films are used and no public musical or dramatic performance, pantomime or circus shall be given in the panchayat area elsewhere than in premises for which a licence has been granted by the executive authority under this section:

Provided that the provisions of this section shall not apply to buildings belonging to or under the control of Government.

82. Nothing in this Chapter shall be construed as requiring Government to take out a licence in respect of any place in the occupation or under the control of or any property belonging to Government or in respect of any entertainment arranged by, or by any Department of, Government. Exemption
Government
from
taking
out
licence.

CHAPTER VI

GENERAL PROVISIONS REGARDING LICENCES AND PERMISSIONS

83. (1) Every licence and permission granted under this Act or any rule made under this Act shall specify the period, if any, for which, and the restrictions, limitations and conditions, subject to which the same is granted, and shall be signed by the executive authority. General pro-
visions regar-
ding licences
and permis-
sions.

(2) Save as otherwise expressly provided in or may be prescribed under this Act, for every such licence or permission fees may be charged on such units and at such rates as may be fixed by the panchayat with the approval of the Director.

(3) The panchayat may farm out the collection of such fees for any period not exceeding three years at a time on such conditions as it thinks fit.

(4) Every order of the executive authority granting or refusing a licence or permission shall be published on the notice board of the panchayat.

(5) Every order of the executive authority refusing, suspending, cancelling or modifying a licence or permission shall be in writing and shall state the grounds on which it proceeds.

(6) Subject to the special provisions in Chapter V regarding private markets, and subject to such sanction as may be required for the refusal of a licence or permission, any licence or permission granted under this Act or any rule made under it may at any time be suspended or revoked by the executive authority if any of its restrictions, limitations or conditions is evaded or infringed by the grantee or if the grantee is convicted of a breach of the provisions of this Act or of any rule made under it in any matter to which such licence or permission relates, or if the grantee has obtained the same by misrepresentation or fraud.

(7) It shall be the duty of the executive authority to inspect places in respect of which a licence or permission is required by or under this Act, and he may enter any such place between sunrise and sunset, and if he has reason to believe that anything is being done in any place without a licence or permission where the same is required by or under this Act, or otherwise than in conformity with the same, he may at any time by day or night without notice enter such place for the purpose of satisfying himself whether any provision of

law or rules, any condition of a licence or permission or any lawful direction or prohibition is contravened and no claim shall lie against any person for any damage or inconvenience necessarily caused by the exercise of powers under this sub-section by the executive authority or any person to whom he has lawfully delegated his powers or by any force necessary for effecting an entrance under this sub-section.

(8) When any licence or permission is suspended or revoked, or when the period for which it was granted, or within which application for renewal should be made, has expired, whichever expires later, the grantee shall for all purposes of this Act or any rule made under it be deemed to be without a licence or permission until the order suspending or revoking the licence or permission is cancelled or, subject to sub-section (12), until the licence or permission is renewed, as the case may be.

(9) Every grantee of a licence or permission shall at all reasonable times, while such licence or permission remains in force, produce the same at the request of the executive authority.

(10) Whenever any person is convicted of an offence in respect of the failure to obtain a licence or permission required by the provisions of this Act or any rule made under it, the Magistrate shall, in addition to any fine which may be imposed, recover summarily and pay over to the panchayat the amount of the fee chargeable for the licence or permission; and may in his discretion also recover summarily and pay over to the panchayat such amount, if any, as he may fix as the costs of the prosecution.

(11) Such recovery of the fee under sub-section (10) shall not entitle the person convicted to a licence or permission as aforesaid.

(12) The acceptance by the panchayat of the pre-payment of the fee for a licence or permission shall not entitle the person making such pre-payment to the licence or permission, as the case may be, but only to refund of the fee in case of refusal of the licence or permission; but an applicant for the renewal of a licence or permission shall until communication of orders on his application be entitled to act as if the licence or permission had been renewed; and save as otherwise specially provided in this Act, if orders on an application for licence or permission are not communicated to the applicant within thirty days after the receipt of the application by the executive authority, the application shall be deemed to have been allowed for the year or for such less period as is mentioned in the application, and subject to the law and rules and all conditions ordinarily imposed.

(13) If an act for which any such licence or permission is necessary is done without such licence or permission, or in a manner inconsistent with the terms of the licence or permission obtained, then—

(a) the executive authority may by notice require the person so doing such act to alter, remove, or as far as practicable, restore to its original state, the

whole or any part of any property, movable or immovable, public or private, affected thereby, within a time to be specified in the notice; and further,

- (b) if no penalty has been specifically provided in this Act for so doing such act, the person so doing it shall be liable on conviction before a Magistrate to a fine not exceeding fifty rupees for every such offence.

Notices, etc.

84. All notices and permissions given, issued or granted, as the case may be, under the provisions of this Act must be in writing. Form of notices and permission.

85. (1) Whenever by any notice, requisition or order under this Act, or under any rule made thereunder, any person is required to execute any work or to take any measures or to do anything, a reasonable time shall be fixed in such notice, requisition or order within which the work shall be executed, the measures taken or the thing done. Time for complying with notice, order, etc., and power to enforce in default.

(2) If such notice, requisition or order is not complied with within the time so fixed,

- (a) the panchayat may cause such work to be executed or may take any measures or do anything which may in its opinion be necessary for giving due effect to the notice, requisition or order; and further,
- (b) if no penalty has been specifically provided in this Act for failure to comply with such notice, requisition or order, the said person shall be liable on conviction before a Magistrate to a fine not exceeding fifty rupees for every such offence.

Powers of entry and inspection

86. (1) Subject to such restrictions and conditions as may be prescribed, the executive authority or any person authorised by him may enter on or into any place with or without notice and with or without assistants or workmen in order— Power of entry and inspection.

- (a) to make any inquiry, inspection, test, examination, survey, measurement or valuation or to execute any other work, which is authorised by this Act or any rule or order made under it or which it is necessary to make or execute for any of the purposes of this Act or in pursuance of any of the said provisions; or
- (b) to satisfy himself that nothing is being done in such place, building or land for which a licence or permission is required under any of the said provisions without such licence or permission or otherwise than in conformity with the terms of the licence or permission obtained.

(2) No claim shall lie against any person for any damage or inconvenience necessarily caused by the exercise of the powers under sub-section (1) or of any force necessary for effecting an entrance under that sub-section.

Testing of weights and measures. **87.** The executive authority or any person authorised by him may examine and test the weights and measures used in the markets and shops in the panchayat area with a view to the prevention and punishment of offences relating to such weights and measures under the Weights and Measures Act for the time being in force.

Prosecution, Suits, etc.

Persons empowered to prosecute. **88.** Save as otherwise expressly provided in this Act, no person shall be tried for any offence against this Act or of any rule or bye-law made thereunder, unless complaint is made within three months of the commission of the offence by the executive authority or by the police or by a person expressly authorised in this behalf by the panchayat; but nothing herein shall affect the provisions of the Code of Criminal Procedure for the time being in force in regard to the powers of certain Magistrates to take cognizance of offences upon information received or upon their own knowledge or suspicion :

Provided that failure to take out a licence or obtain permission under this Act shall, for the purposes of this section, be deemed to be a continuing offence until the expiration of the period, if any, for which the licence or permission is required and if no period is specified, complaint may be made at any time within twelve months from the commencement of the offence.

Charge officers need not be examined on complaints. **89.** (1) Notwithstanding the provisions contained in the Code of Criminal Procedure, for the time being in force, the executive authority or the person authorised by the panchayat to file complaints, who files such complaints in courts of law for offences under this Act or the rules or bye-laws made thereunder, need not be examined on such complaints before the issue of summons on them.

(2) The panchayat may with the approval of the Director compound any offence against this Act or any rule made thereunder, which may by rules be declared compoundable.

Sanction for prosecution of president or member of a panchayat. **90.** When the president, executive authority or any member is accused of any offence alleged to have been committed by him while acting or purporting to act, in the discharge of his official duty, no court shall take cognizance of such offence except with the previous sanction of Government.

Institution of legal proceedings against panchayat, member, officer, servant or agent. **91.** (1) No action, civil or criminal, shall lie against any member, officer, servant or agent of a panchayat acting under its direction in respect of anything done in good faith under this Act or any rule or bye-law made thereunder.

(2) No suit shall be brought against any panchayat or any member, officer, servant or agent thereof acting under its direction in respect of any act purporting to be done in its

or his official capacity until the expiration of thirty days next after notice in writing has been, in the case of a panchayat, left or delivered at its office, and in the case of a member, officer or servant delivered to him or left at his office or place of abode. The notice shall state the cause of action, the name and place of abode of the intending plaintiff, and the relief, which he claims. The plaint shall contain a statement that such notice has been so delivered or left.

(3) No such action shall be entertained unless instituted within eight months after the accrual of the alleged cause of action and the service of such notice is admitted or proved.

92. Nothing herein contained shall preclude the institution by the panchayat of a suit for any amount due under this Act. Suit for recovery of dues.

93. (1) It shall be the duty of every police officer— Duties of police officer.

(a) to communicate without delay to the proper panchayat officer any information which he receives of the design to commit or of the commission of any offence under this Act or any rule or bye-law made under it; and

(b) to assist the president, the executive authority or any officer of the panchayat reasonably demanding his aid for the lawful exercise of any power vesting in the president, the executive authority or in such officer or servant of the panchayat under this Act or any rule or bye-law made under it.

(2) Any police officer who omits or refuses to perform any duty imposed on him by this Act, shall be deemed to have committed an offence under the provisions of the Police Act for the time being in force.

94. Notwithstanding anything contained in the Code of Civil Procedure, or in any other law for the time being in force, no court shall grant any permanent or temporary injunction or make any interim order restraining any proceeding which is being or about to be taken under this Act for the preparation or publication of electoral rolls or for the conduct of any election. Injunction not to be granted in election proceedings.

95. (1) The president, every member and the executive authority of a panchayat shall be liable for the loss, waste or misapplication of any money or property at the disposal or control of the panchayat if such loss, waste or misapplication is a direct consequence of his neglect or misconduct; and a suit for compensation may be instituted against him by the panchayat or by a voter with the previous sanction of the Government. Liability of the president and members for loss, waste, or misapplication.

(2) Every such suit shall be commenced within three years after the date on which the cause of action arose.

Assessments,
etc. not to be
impeached.

96. (1) No assessment or demand made and no charge imposed under the authority of this Act shall be impeached or affected by reason of any clerical error or by reason of any mistake—

- (a) in respect of the name, residence, place of business or occupation of any person, or
- (b) in the description of any property or thing, or
- (c) in respect of the amount assessed, demanded or charged:

Provided that the provisions of this Act have been, in substance and effect, complied with.

And no proceedings under this Act shall merely for defect in form be quashed or set aside by any court of justice.

(2) No suit shall be brought in any court to recover any sum of money collected under the authority of this Act or to recover damages on account of any collection of money made under the said authority :

Provided that the provisions of this Act have been, in substance and effect, complied with.

CHAPTER VII

RULES AND PENALTIES

Power of
Government
to make rules.

97. (1) Government shall, in addition to the rule making powers conferred on them by any other provisions contained in this Act, have power to make rules generally to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, Government may make rules—

- (i) with reference to all matters expressly required or allowed by this Act to be prescribed ;
- (ii) for the conduct of business and the procedure to be followed by panchayats in the conduct of the meetings and as to the interpellation of the president by the members and the moving of resolutions at meetings;
- (iii) as to all matters relating to electoral rolls or elections not expressly provided for in this Act, including deposits to be made by candidates standing for election as members and the conditions under which such deposits may be forfeited and the conduct of inquiries and the decision of disputes relating to electoral rolls or elections;
- (iv) as to the constitution of committees of panchayats, the inclusion of outsiders therein and the delegation of functions to such committees;
- (v) as to the delegation of any functions of a panchayat to the president, member, any officer of the panchayat or any servant of Government;

- (vi) as to the conditions on which property may be acquired by the panchayat or on which property vested in or belonging to the panchayat may be transferred by sale, mortgage, lease, exchange or otherwise;
- (vii) as to the transfer of allotments entered in the sanctioned budget of a panchayat from one head to another ;
- (viii) as to the estimate of receipts and expenditure, returns, statements and reports to be submitted by panchayats ;
- (ix) as to the preparation of plans and estimates for works and the power of panchayats and of servants of Government to accord professional or administrative sanction to estimates;
- (x) as to the accounts to be kept by panchayats and the audit of such accounts ;
- (xi) as to the powers of auditors to disallow and surcharge items, appeals against orders of disallowance or surcharge, and the recovery of sums disallowed or surcharged ;
- (xii) as to the powers of auditors, inspecting and superintending officers and officers authorised to hold inquiries, to summon and examine witnesses and to compel the production of documents and all other matters connected with audit, inspection and superintendence ;
- (xiii) as to the conditions on which and the mode in which contracts may be made by or on behalf of panchayats ;
- (xiv) for the realisation of fees due in respect of the use of cart-stands and the like whether by seizure and sale of the vehicle or animal concerned or any part of its burden or otherwise;
- (xv) as to the form and contents of licences, permissions and notices granted or issued under this Act, the manner of their issue or the method of their service and the modification, suspension or cancellation thereof ;
- (xvi) as to the powers of panchayats and executive authorities to call for information on any matter, to summon and examine witnesses, and compel the production of documents ;
- (xvii) for the use of facsimiles of the signature of the executive authority ;
- (xviii) regulating contracts between the panchayat and the owners or occupiers of private premises, for the removal therefrom of rubbish or filth, or any kind of rubbish or filth ;

- (xix) as to the provision of burial and burning grounds, the licensing of private burial and burning grounds, the regulation of all grounds so provided or licensed, the closing of any such grounds, and the prohibition of the disposal of corpses except in such grounds or other permitted places;
- (xx) for the removal of encroachments of any kind from public roads in panchayat areas and the repair of any damage caused to such roads by the person causing the damage or at his expense;
- (xxi) as to the imposition and recovery of penalties for the unauthorised occupation of public roads, or other land under the control of panchayats and the assessment and recovery of compensation for any damage caused by such occupation;
- (xxii) as to the powers which may be exercised by the panchayat in respect of any public or private market or the user thereof and the enforcement of any orders issued in pursuance of such powers;
- (xxiii) as to the disposal of fallen trees and the realisation of the expenses incurred for their removal;
- (xxiv) for the decision of disputes between two or more local authorities of which one is a panchayat;
- (xxv) for regulating the sharing between local authorities of the proceeds or income levied or obtained under this or any other Act;
- (xxvi) as to the manner of publication of notifications of notices to the public under this Act.

Penalties for breach of rules.

98. (1) In making any rules under this Act, Government may provide that a breach thereof shall be punishable with fine which may extend to fifty rupees or, in the case of a continuing breach, with a fine not exceeding fifteen rupees for every day during which the breach continues after conviction for the first breach.

(2) The power to make rules under this Act shall be subject to the condition of previous publication.

(3) All rules made under this Act shall be published in the Gazette and upon such publication shall have effect as if enacted in this Act.

Bye-laws

Power to make bye-laws.

99. The panchayat may with the approval of the Director make bye-laws not inconsistent with this Act or with any other law to provide—

- (i) for the due performance by all panchayat officers and servants of the duties assigned to them;
- (ii) for the regulation of the mode and time of collecting the dues under this Act;

- (iii) (a) for the use of public tanks, wells, conduits and other places or works for water supply ;
- (b) for the regulation of public bathing, washing and the like ;
- (c) for the maintenance and protection of the water supply system ;
- (iv) (a) for the regulation of the use of public streets, or their closing thereof or parts thereof ;
- (b) for the regulation of traffic in public streets or their reservation for particular kinds of traffic ;
- (c) for the protection of avenue trees, grass and other appurtenances of public streets and other places ;
- (v) for the regulation of the use of parts, gardens and other public or panchayat places ;
- (vi) for the regulation of hotels, lodging houses, boarding houses, chattranis, rest houses, emigration depots, restaurants, eating houses, cafes, refreshment rooms, coffee houses and any premises to which the public are admitted for repose or for the consumption of any food or drink ;
- (vii) for the sanitary control and supervision of places used for any of the purposes notified under section 80 and of any trade or manufacture carried on there ;
- (viii) (a) for the control and supervision of slaughter-houses and of places used for skinning and cutting up carcasses ;
- (b) for the control and supervision of the methods of slaughtering ;
- (c) for the control and supervision by licence or otherwise of butchers carrying on business in the panchayat area ;
- (ix) (a) for the inspection of public and private markets and shops and other places therein ;
- (b) for the regulation of their use and the control of their sanitary condition ;
- (c) for licensing and controlling brokers, commission agents, weighmen and measurers practising their calling in markets ;
- (x) for the prevention of the sale or exposure for sale of unwholesome meat, fish or provisions and securing the efficient inspection and sanitary regulations of shops in which articles intended for human food are kept or sold ;
- (xi) for the prevention of dangerous diseases of men and animals ;
- (xii) for the enforcement of compulsory vaccination ;
- (xiii) for the prevention of outbreaks of fire ;

- (xiv) for the regulation, control and inspection of places of public entertainments;
- (xv) in general for securing cleanliness, safety and order and the good government and well-being of the panchayat area and for carrying out all the purposes of this Act.

Penalty for breaches of bye-laws.

100. In making a bye-law, the panchayat may provide that a breach thereof shall be punishable—

- (a) with fine which may extend to fifteen rupees, and in case of a continuing breach, with fine which may extend to five rupees for every day during which the breach continues after conviction for the first breach; or
- (b) with fine which may extend to five rupees for every day during which the breach continues after receipt of notice from the executive authority to discontinue such breach.

Conditions precedent to making of bye-laws.

101. The panchayat shall before making or altering bye-laws publish a draft of the proposed bye-laws and alterations together with a notice specifying the date at or after which such draft will be taken into consideration, and shall before making the bye-laws or alterations, receive and consider any objection or suggestion which may be made in respect of such draft by any person interested therein before the date so specified.

Confirmation of bye-laws by Director.

102. (1) No bye-law or cancellation or alteration of a bye-law shall have effect until the same shall have been approved and confirmed by the Director.

(2) Any bye-law or cancellation or alteration of a bye-law when it shall have been duly confirmed shall be published in the Gazette and shall come into operation on such publication unless otherwise provided.

Cancelling of bye-laws by Government.

103. Government may cancel, alter or modify any bye-law made by any Panchayat.

Penalties

General provisions regarding penalties specified in the Schedule.

104. (1) Whoever—

- (a) contravenes any of the provisions of this Act specified in the first and second columns of Schedule I, or
- (b) contravenes any rule or order made under any of the provisions so specified, or
- (c) fails to comply with any direction lawfully given to him or any requisition lawfully made upon him under or in pursuance of any of the said provisions, shall be punishable with fine which may extend to the amount mentioned in that behalf in the fourth column of the said schedule.

(2) Whoever after having been convicted of—

- (a) contravening any of the provisions of this Act specified in the first and second columns of Schedule II, or
- (b) contravening any rule or order made under any of the provisions so specified, or
- (c) failing to comply with any direction lawfully given to him or any requisition lawfully made upon him under or in pursuance of any of the said provisions, continues to contravene the said provisions or the said rule or order, or continues to fail to comply with the said direction or requisition shall be punished for each day after the previous date of conviction, during which he continues to offend, with fine which may extend to the amount mentioned in that behalf in the fourth column of the said Schedule.

Explanation.—The entries in the third column of Schedules I and II headed “subject” are not intended as definitions of the offences described in the provisions specified in the first and second columns thereof, or even as abstracts of those provisions, but are inserted merely as references to the subject dealt with therein.

105. (1) Whoever acts as a member of a panchayat knowing that under this Act or the rules made thereunder he is not entitled or has ceased to be entitled to hold office as such shall be punished with fine not exceeding one hundred rupees for every such offence. Penalty for acting as member, president or vice-president of a panchayat when disqualified.

(2) Whoever acts as, or exercises the functions of, the president, acting president, or vice-president of a panchayat knowing that under this Act or the rules made thereunder he is not entitled or has ceased to be entitled to hold office as such, or to exercise such functions shall be punishable with fine not exceeding two hundred rupees for every such offence.

(3) Any person who, having been the president, acting president or vice-president of a panchayat, fails to hand over any documents of, or any moneys or other properties belonging to the panchayat, which are in or have come into his possession or control, to his successor in office or other prescribed authority—

- (a) in every case as soon as his term of office as such president, acting president or vice-president, expires; and
- (b) in the case of a person who was the vice-president also on demand by the president;

shall be punishable with fine not exceeding two hundred rupees for every such offence.

106. If any officer or servant of a panchayat knowingly acquires, directly or indirectly, by himself or by a partner, employer or servant, any personal share or interest in any contract or employment with, by or on behalf of the panchayat, he shall be deemed to have committed an offence under section 160 of the Travancore Penal Code or section 154 of the Cochin Penal Code. Penalty for acquisition by an officer or servant of interest in contract work.

Provided that no person shall, by reason for being a shareholder in, or a member of, any company be held to be interested in any contract entered into between such company and the panchayat, unless he is a director of such company:

Provided further that nothing in this section shall apply to any person who, with the sanction of Government, enters into a contract with the panchayat.

Wrongful restraint of president or his delegate.

107. Any person who prevents the president, the executive authority or any person to whom the president has lawfully delegated his powers of entering on or into any place, building or land from exercising his lawful power of entering thereon or thereinto shall be deemed to have committed an offence under section 342 of the Travancore Penal Code or section 322 of the Cochin Penal Code.

Prohibition against obstruction of panchayat president, member, servant or contractor.

108. Any person obstructing or molesting a panchayat, its president, a member thereof, the executive authority, any person employed by the panchayat, or any person with whom a contract has been entered into by or on behalf of the panchayat in the discharge of their duty or of anything which they are empowered or required to do by virtue or in consequence of this Act or of any rule or order made under it, shall be punishable with fine which may extend to fifty rupees.

Prohibition against removal or obliteration of notice.

109. Any person who, without lawful authority in that behalf, removes, destroys, defaces or otherwise obliterated any notice exhibited or any sign or mark erected by or under the orders of a panchayat or the executive authority shall be punishable with fine which may extend to fifty rupees.

Penalty for not giving information or giving false information.

110. Any person who is required by this Act or by any notice or other proceeding issued thereunder to furnish any information omits or refuses without just cause to furnish such information, or knowingly or negligently furnishes false information shall be punishable with fine not exceeding one hundred rupees.

CHAPTER VIII

SUPPLEMENTAL PROVISIONS

Public roads, markets, wells, tanks, etc., to be open to all.

111. All roads, markets, wells, tanks, reservoirs and waterways under the control of or maintained by a panchayat shall be open to the use and enjoyment of all persons irrespective of their caste or creed.

Delegation of powers, etc.

112. (1) Government may, by notification in the Gazette authorise any person to exercise in any local area in regard to any panchayat or all panchayats in that area, any of the powers vested by this Act in the Director and may in like manner withdraw such authority.

(2) The exercise of any power delegated under sub-section (1) shall be subject to such restrictions and conditions may be prescribed or as may be specified in the notification and also to control and revision by Government.

113. Any reference to a village union or village panchayat contained in any law, rule, bye-law, regulation, notification or order in force for the time being in the State of Travancore-Cochin at the commencement of this Act shall be deemed to be a reference to a panchayat as re-constituted or constituted under this Act. Construction of references to village unions or village panchayats.

114. (1) In regard to the first re-constitution in accordance with the provisions of this Act of Village Unions and Village Panchayats in existence at the commencement thereof and otherwise in first giving effect to the said provisions, they shall be read subject to the provisions in Schedule III. Act to be read subject to certain provisions.

(2) Government shall have power by notification in the Gazette to amend, add to, or repeal the provisions in Schedule III.

CHAPTER IX

MISCELLANEOUS

115. (1) An appeal from any notice or order issued or other action taken or proposed to be taken by the executive authority under the provisions of this Act or the rules framed thereunder shall in the first instance lie to the panchayat, and the panchayat may pass such orders as it deems fit. Appeals against orders of panchayat Director etc.

(2) Any person aggrieved by any notice or order issued or passed by or by any other act of a panchayat or its executive authority under this Act may appeal to the Director and an appeal against the orders of the Director shall lie to Government. The appellate authority may pass such orders on the appeal as it deems fit and pending decision, may direct the panchayat, the executive authority or the Director, as the case may be, to keep the proceedings in abeyance.

(3) An appeal under sub-section (1) or sub-section (2) shall be presented within thirty days from the date of the act or the promulgation of service of the order or notice complained of. The time occupied in obtaining copies of material papers in connection with the order, notice or act appealed against shall be excluded from the computation of the said thirty days.

116. If any difficulty arises in first giving effect to the provisions of this Act or as to the first re-constitution or constitution of any panchayat after the commencement of this Act, Government, as occasion may require, may by order do that which appears to them necessary for the purpose of removing the difficulty. Power to remove difficulties.

117. (1) Any reference to the president contained in any enactment in force in the State of Travancore-Cochin or in any notification, order, scheme, rule, form or bye-law made under any such enactment and in force in the State shall, where such reference relates to the executive functions of the president, be construed as a reference to the executive authority. Reference to president in other enrolment and notifications, etc., issued thereunder.

(2) If any question arises as to whether any such reference relates to the executive functions of the president or not, the decision of the Government shall be final.

Repeal. **118.** The Travancore Village Panchayat Act of 1100 (VI of 1100), the Travancore Village Unions Act, 1115 (IX of 1115) and the Cochin Village Panchayat Acts, V of 1089 and XX of 1120, are hereby repealed.

SCHEDULE 1

ORDINARY PENALTIES

[See section 104 (1)]

Section	Sub-section.	Subject	Maximum fine which may be imposed
(1)	(2)	(3)	(4)
66	(a)	Unlawful building of wall or erecting of fence, etc., in or over public road.	One hundred rupees.
66	(b)	Unlawful making of hole or depositing of matter in or over public road.	Fifty rupees.
66	(c)	Unlawful construction of building over drain	Two hundred rupees.
66	(d)	Planting of trees without permission on any public road or other property vested in a panchayat.	Do.
66	(e)	Felling, etc., without permission of trees growing on public road or other property vested in a panchayat.	Do.
70		Sale or exposure for sale in public market of animal or article without licence or contrary to licence.	Twenty rupees.
71	(1)	Opening of a new private market or continuing to keep open a private market without licence or contrary to licence.	Three hundred rupees.
73		Sale, etc., of articles in public roads or places after prohibition or without licence or contrary to regulations.	Ten rupees.
75	(b)	Using any public place or roadside as a landing or halting place or as a cart-stand within prohibited distance.	Fifty rupees.
75	(1)	Opening a new private cart-stand or continuing to keep open a private cart-stand without licence or contrary to licence.	Fifty rupees.
78		Use of place as slaughter house without licence or contrary to licence.	One hundred rupees.
79		Slaughter of animals for sale as food or skinning or cutting up carcasses or drying skin so as to cause a nuisance.	Twenty rupees for every animal, carcass or skin.
80		Using a place for any prescribed purposes without licence or contrary to licence.	One hundred rupees.
111		Obstructing a person in the use or enjoyment of a public road, market, well, tank, etc.	Do.

SCHEDULE II

PENALTIES FOR CONTINUING BREACHES

[See section 104 (2)]

Section	Sub-section	Subject	Maximum fine which may be imposed
(1)	(2)	(3)	(4)
66	(a)	Unlawful building of wall or erecting of fence, etc., in or over public road.	Twenty rupees.
66	(b)	Unlawful making of hole or depositing of matter in or over public road.	Ten rupees.
66	(c)	Unlawful construction of building over drain . . .	Fifty rupees.
71	(1)	Keeping open a private market without licence or contrary to licence.	One hundred rupees.
76	(1)	Keeping open a private cart-stand without licence or contrary to licence.	Twenty rupees.
8		Using a place for any prescribed purpose without a licence or contrary to licence.	Do.

SCHEDULE III

TRANSITIONAL PROVISIONS

(See section 114)

PART A

1. In this Part—

- (a) "Village Panchayat" means a village panchayat constituted under the Travancore Village Panchayat Act of 1100 and in existence at the commencement of this Act. Definitions.
- (b) "Village Union" means a village union constituted under the Travancore Village Unions Act, 1115, and in existence at the commencement of this Act.

2. Every local area which at the commencement of this Act is a village panchayat or a village union shall be deemed to have been declared to be a panchayat area under this Act, and every village panchayat or village union shall be deemed to have been constituted under this Act. Existing village panchayats and village unions to be deemed to be duly constituted.

3. The total number of members of a Village Panchayat or a Village Union fixed under the Travancore Village Panchayat Act of 1100 or the Travancore Village Unions Act, 1115, as the case may be, and in force at the commencement of this Act shall be deemed to have been declared to be the total number of its members under this Act. Total number of members of Village Panchayats and Village Unions.

4. The term of office of the members of every Village Panchayat and Village Union holding office at the commencement of this Act shall continue upto the date on which it would have expired under the Travancore Village Panchayat Act of 1100 or the Travancore Village Unions Act, 1115, as the case may be, or until such time as Government may, by notification in the Gazette, determine. Term of existing members.

5. The chairman or president of a Village Panchayat or a Village Union holding office at the commencement of this Act shall, subject to the provisions thereof, continue to hold office as such chairman or president until the date referred to in rule 4. Terms of office of existing president.

Filling up of casual vacancies. 6. (1) Any vacancy in the office of the chairman or president of a Village Panchayat or a Village Union which is in existence at the commencement of this Act or which occurs before the date referred to in rule 4 shall be filled by election by such Village Panchayat or Village Union.

(2) Any such vacancy in the office of a member of a Village Panchayat or Village Union shall be filled under the provisions of the Act under which such Village Panchayat or Village Union was constituted.

(3) Any person elected as president under sub-rule (1) or any member of a Village Panchayat or Village Union elected or nominated under sub-rule (2) shall hold office only up to the date referred to in rule 4.

Reconstitution of Village Panchayats and Village Unions dissolved under the old Acts. 7. Any Village Panchayat or Village Union dissolved under the Travancore Village Panchayat Act of 1100 or the Travancore Village Unions Act, 1115, as the case may be, may be re-constituted in accordance with the provisions of this Act.

Devolution of property, rights and liabilities. 8. (1) All property, all rights of whatever kind used, enjoyed or possessed by, and all interests of whatever kind owned by or vested in or held in trust by or for any Village Panchayat or Village Union as well as all liabilities legally subsisting against it shall, on and from the date of commencement of this Act and subject to such directions as Government may by general or special order give in this behalf, pass to such Village Panchayat or Village Union, as is or deemed to have continued under this Act.

(2) All proceedings taken by or against any Village Panchayat or Village Union or other authority under the Travancore Village Panchayat Act of 1100 or the Travancore Village Unions Act, 1115, may, in so far as they are not inconsistent with this Act, be continued by such Village Panchayat or Village Union or authority under this Act.

(3) All fees or other dues which a Panchayat is empowered to collect under this Act and which have accrued due prior to the commencement of this Act to any department of Government shall be collected by the panchayats as if they were fees or dues to be collected by the Panchayats under this Act.

Action taken under old Acts to continue. 9. Any action taken by any authority before the commencement of this Act shall, unless inconsistent with this Act, be deemed to have been taken by the authority competent to take such action under this Act, unless and until superseded by action taken by such authority, whether it be the same as the authority competent to take such action under the Travancore Village Panchayat Act of 1100 or the Travancore Village Unions Act, 1115, as the case may be, or not.

PART B

Definitions of 'old Act' and 'panchayat'. 1. In this Part "the old Act" means the Cochin Village Panchayat Act, V of 1939, and "Panchayat" means a panchayat constituted under the old Act and in existence at the commencement of this Act.

Existing villages and panchayats to be deemed to be duly constituted. 2. Every local area which at the commencement of this Act is a panchayat under the old Act shall be deemed to have been declared to be a panchayat area under this Act and every Panchayat shall be deemed to have been constituted under this Act.

Total number of members of panchayats. 3. The total number of members of a panchayat fixed under the old Act and in force at the commencement of this Act shall be deemed to have been declared to be the total number of its members under this Act and Government may nominate one of the members as the vice-president.

4. The term of office of the members of every panchayat holding office at the commencement of this Act shall continue up to the date on which it would have expired under the old Act or until such time as Government may, by notification in the Gazette, determine. Term of office of existing Government members.

5. The president of a panchayat holding office at the commencement of this Act shall, subject to the provisions thereof, continue to hold office as such president until the date referred to in rule 4. Term of office of existing president.

6. (1) Any vacancy in the office of the president of a panchayat which is in existence at the commencement of this Act or which occurs before the date referred to in rule 4 shall be filled by election by the panchayat. Filling up of casual vacancies.

(2) Any such vacancy in the office of a member of a panchayat shall be filled under the provisions of the old Act.

(3) Any person elected as president under sub-rule (1) or an member of a panchayat elected or nominated under sub-rule (2) shall hold office only up to the date referred to in rule 4.

7. Any panchayat dissolved under the old Act may be reconstituted in accordance with the provisions of this Act. Reconstitution of panchayats dissolved under the old Act.

8. (1) All property, all rights of whatever kind used, enjoyed or possessed by, and all interests of whatever kind owned by or vested in or held in trust by or for any panchayat as well as all liabilities legally subsisting against it shall, on and from the date of the commencement of this Act and subject to such directions as Government may, by general or special order, give in this behalf, pass to such panchayat as is or deemed to have been constituted under this Act. Devolution of property, rights and liabilities.

(2) All proceeding taken by or against any panchayat or other authority under the old Act may, in so far as they are not inconsistent with this Act, be continued by such panchayat or authority under this Act.

(3) All fees or other dues which panchayat is empowered to collect under this Act and which have accrued due prior to the commencement of this Act to any department of Government shall be collected by the panchayat as if they were fees or dues to be collected by the panchayat under this Act.

9. Any action taken by any authority before the commencement of this Act shall, unless inconsistent with this Act, be deemed to have been taken by the authority competent to take such action under this Act, unless and until superseded by action taken by such authority whether it be the same as the authority competent to take such action under the old Act or not. Action taken under all Acts to continue.

ACTS IN PART 'C' STATES

THE BHOPAL STATE PANCHAYAT RAJ ACT, 1953

Bhopal Act II of 1953

An Act to establish and develop Local-Self-Government in the rural areas of the State of Bhopal.

WHEREAS it is expedient to establish and develop Local-Self-Government in the rural areas of the State of Bhopal and to make better provision for village administration and development. Preamble.

It is hereby enacted as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called, “The Bhopal State Panchayat Raj Act, 1953.” Short title, extent and commencement.

(2) The Government may, by notification in the Official Gazette, extend all or any of the provisions of this Act to the whole or to any part of the Bhopal State, except the areas which have been or may be declared as or included in a Municipality, under the provisions of the Bhopal Municipalities Act, 1916, or as a Town Area under the United Provinces Town Areas Act, 1914, as extended to the State of Bhopal or any other area which the Government may, by notification in the Official Gazette, specify.

(3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

2. (1) In this Act, unless the context otherwise requires:—

Definitions

- (a) “Gaon Sabha” means a Gaon Sabha established under section 3;
- (b) “Gaon Panchayat” means the Executive Committee of a Gaon Sabha, established under section 11;
- (c) “Nyaya Panchayat” means a Nyaya Panchayat constituted under section 51 for the purpose of the trial of suits and cases ;
- (d) “Circle” means the area within which a Nyaya Panchayat exercises jurisdiction under section 50;
- (e) “Collector” or “District Magistrate” or “Sub-Divisional Magistrate” with reference to a Gaon Sabha means the Collector, District Magistrate or Sub-Divisional Magistrate of the district or the sub-division, as the case may be, in which such Gaon Sabha is constituted; the Sub-Divisional Magistrate also includes a First Class Magistrate especially empowered by the State Government for such purposes ;
- (f) “Building” includes a hut, shed, house, shop, warehouse or work-shop;

- (g) "Adult" means a person, who is not less than twenty-one years of age;
- (h) "Case" means a criminal proceeding in respect of an offence triable by a Nyaya Panchayat;
- (i) "Suit" means a civil suit triable by a Nyaya Panchayat;
- (j) "Sub-Judge" with reference to a Gaon Panchayat means the Sub-Judge having local jurisdiction in the area in which such Gaon Panchayat is constituted, it also includes a Munsif specially empowered by the State Government for such purposes ;
- (k) "Population" means the population of a village or area as determined in the manner prescribed in this behalf;
- (l) "Scheduled Caste and Scheduled Tribe" means caste and tribe as specified in the Schedules I and II of the Government of Part C States Act, 1951 (XLIX of 1951), respectively so far as it relates to Bhopal State;
- (m) "Public Servant" means a public servant as defined in section 21 of the Indian Penal Code, 1860;
- (n) "Public Street" means any road, street, bridge, lane, square, courtyard, alley or passage which the public has a right to pass along, and includes on either side the drains or gutters and the land upto the defined boundary of any abutting property, notwithstanding any projection over such land of any verandah or other superstructure;
- (o) "Prescribed" means prescribed by this Act or rules made thereunder;
- (p) "Prescribed Authority" means an authority notified as such by the State Government, either generally or for particular purposes ;
- (q) "Occupant" shall have the meaning assigned to it in clause 15 of section 2 of the Bhopal State Land Revenue Act, 1932, and includes a Jagirdar or Muafidar in whose favour land revenue has been assigned or relinquished ;
- (r) "Shikmi" shall have the meaning assigned to it in clause 21 of section 2 of the Bhopal State Land Revenue Act, 1932;
- (s) "Village" means any local area, recorded as a village in the revenue records of the District in which it is situated ;
- (t) "Public land or common land" means the land which is not in exclusive use of any individual but is in common use of the villagers ;
- (u) "Panch" means a member of a Nyaya Panchayat nominated under section 51 other than a Sarpanch;
- (v) "Sarpanch" means a sarpanch nominated under section 52;
- (w) "Joint Committee" means a committee formed under section 17.

CHAPTER II

ESTABLISHMENT AND CONSTITUTION OF GAON SABHAS

3. (1) The State Government may, by notification in the Official Gazette, establish a Gaon Sabha for every village or group of villages.

Establishment and constitution of Gaon Sabha & its jurisdiction.

(2) The State Government shall declare the name and the territorial jurisdiction of the Gaon Sabha in the notification mentioned in sub-section (1) and may at any time, by notification in the Official Gazette, either on its own motion or of a Gaon Sabha or of the residents of any village, include any area in or exclude any area from the area of a Gaon Sabha.

(3) Where by a notification under sub-section (2) any area is included in the jurisdiction of a Gaon Sabha, such area shall thereby become subject to all notifications, rules, regulations, bye-laws and orders made under this or any other enactment in force in the area within the jurisdiction of the aforesaid Gaon Sabha.

4. Every Gaon Sabha shall by name, notified in the Official Gazette under sub-section (2) of section 3, be a body corporate having perpetual succession and a common seal and shall subject to any restriction or condition imposed by or under this or any other Act, have power to acquire, by purchase, gift or otherwise, to hold, administer and transfer property, both movable and immovable and to enter into any contract and shall by the said name sue or be sued.

Gaon Sabha to be body corporate.

5. A Gaon Sabha shall consist of all adults permanently residing within the area for which the Sabha is established, but no such adult shall be entitled to be or to remain a member of a Gaon Sabha, if he—

Membership of Gaon Sabha.

- (a) is of unsound mind, or
- (b) is suffering from leprosy, or
- (c) is an undischarged insolvent,
- (d) is a servant of the State Government or a local authority or is an Honorary Magistrate, Honorary Munsif or Honorary Assistant Collector, having jurisdiction over any area of the Gaon Sabha or a part thereof, or
- (e) is convicted of an election offence, or
- (f) has been convicted for an offence involving moral turpitude or ordered to give security for good behaviour under section 110 of the Code of Criminal Procedure, 1898, (V of 1898) provided that the disqualification under clause (c) or (e) or (f) may be removed by an order of the State Government or by the Prescribed Authority.

Explanation.—A Patel and a Choukidar of a village will not be deemed to be a servant of the State for the purposes of this section.

Period of membership.

6. A member of a Gaon Sabha shall continue to be its member until his death or until he incurs any disqualification specified in section 5 or until the area in which he resides is excluded from the jurisdiction of the Gaon Sabha under section 8, or until the abandonment of his permanent residence in the village :

Provided that a person described in section 5 who has ceased to be a member by reason of a disqualification mentioned therein or abandonment of a permanent residence in the village shall, on the removal of the disqualification or the resumption of his permanent residence in the village, as the case may be, and on an application made by him to the President of the Gaon Sabha in this behalf, after such inquiry as may be prescribed, be re-enrolled as a member thereof.

Disqualification, omission or defect in enrolment not to vitiate Act or proceedings.

7. No disqualification, defect or omission in the enrolment of a member shall vitiate any Act or proceeding of a Gaon Sabha if not less than two-thirds of the members at the time the act was done, or the proceeding taken, were duly qualified members thereof.

Effect of change in population or inclusion of the area of Gaon Sabha in municipalities etc.

8. If the whole of the area of a Gaon Sabha is included in a Municipality, notified area, or town area, the Gaon Sabha shall cease and its assets and liabilities shall be disposed of in the manner prescribed. If a part of such area is so included, its jurisdiction shall be reduced by that part.

Register of members.

9. On the establishment of a Gaon Sabha the prescribed authority shall cause to be prepared a register, in the prescribed form, of all adult persons permanently residing within the jurisdiction of such Gaon Sabha and such register shall, among other things, contain the names of every person entitled under section 5 to be a member of the Gaon Sabha on the date of its establishment. The register so prepared shall be revised at least once a year in the manner prescribed.

Removal of difficulty in the establishment of Gaon Sabha and in the working of a Gaon Panchayat.

10. If, in establishing a Gaon Sabha or in the working of a Gaon Panchayat any dispute or difficulty arises regarding the interpretation of any provision of this Act or any rule made thereunder or any matter arising out of or relating to such interpretation or any matter not provided in this Act, the same shall be referred to the State Government whose decision thereon shall be final and conclusive.

CHAPTER III

THE GAON SABHA—ITS MEETINGS AND FUNCTIONS

Establishment and Constitution of Gaon Panchayat.

11. (1) As soon as may be after its establishment, every Gaon Sabha shall elect from among its members—

(i) A President and a Vice-President who shall be called *Pradhan* or *Sadar* and *Up-Pradhan* or *Naib-Sadar* respectively.

(ii) An Executive Committee called the Gaon Panchayat.

(2) The number of elected members of a Gaon Panchayat shall be between 15 and 30 as may be specified by the State Government in the manner prescribed, in addition to the President and Vice-President of the Gaon Sabha who shall also be the President and Vice-President of the Gaon Panchayat respectively.

(3) The State Government may also, if it deems necessary, nominate elected Patels of a Gaon Sabha or a constituent village of a Gaon Sabha to be members of a Gaon Panchayat to a maximum number of $\frac{1}{3}$ of the total number of the members of a Gaon Panchayat.

(4) The term of office of a President or Vice-President and a member of a Gaon Panchayat other than a member chosen to fill a casual vacancy shall be three years.

12. If for any reason the election does not result in the return of the required number of qualified persons willing to take office, the Prescribed Authority shall nominate the required number of willing persons, who would otherwise have been qualified to be elected and such nominated persons shall be deemed to have been elected as members under sub-section (2) of section 11. Power to nominate.

13. The area of a Gaon Sabha may be divided by the Prescribed Authority into such number of constituencies as may be convenient for the purpose of election. Constituencies.

14. The election of the members of a Gaon Panchayat in a Gaon Sabha or in a Constituency thereof shall be held on the basis of adult suffrage. Adult suffrage.

15. Where there are any Scheduled Castes and Scheduled Tribes in the area of a Gaon Sabha such number of seats shall be assigned to them for the first election as may be in proportion to their population in the area of such Gaon Sabha. Reservation for Scheduled Castes and Tribes.

16. (1) Every Gaon Sabha shall hold two general meetings in each year, one soon after the harvesting of the Kharif crop (hereinafter called the Kharif meeting) and the other soon after the harvesting of the Rabi crop (hereinafter called the Rabi meeting): Meetings of the Gaon Sabha.

Provided that the President may at any time on his own initiative or upon a requisition in writing of not less than one-fifth of the members shall, within 30 days from the receipt of such requisition, call an extraordinary general meeting. The time and place of all the meetings of the Gaon Sabha shall be published in the prescribed manner.

(2) For any meeting of the Gaon Sabha one-fifth of the total number of members of the Gaon Sabha shall form the quorum; provided that no quorum shall be necessary for a meeting adjourned for want of quorum.

17. (1) Subject to such rules as may be prescribed, two or more Gaon Sabhas may combine by means of a written

instrument to appoint a joint committee consisting of their representatives for the purpose of transacting any business in which they are jointly interested and may :—

- (a) delegate to such committee power, with such conditions as they may think proper to impose, to frame any scheme binding on each such Gaon Sabha as to the construction and maintenance of any joint work and as to the power which may be exercised by any such committee in relation to such scheme; and
- (b) frame or modify rules regarding the continuation of such committee and the term of office of members thereof and the method of conducting proceeding and correspondence.

(2) If any difference of opinion arises between the Gaon Sabhas acting under this section, it shall be referred to the Prescribed Authority whose decision thereon shall be final.

Removal of President or Vice-President of Gaon Panchayat and filling of vacancies so caused.

18. The Gaon Sabha may at any ordinary meeting remove the President or the Vice-President by a majority of two-third votes of those present. In such an event and otherwise when any vacancy occurs, the Gaon Sabha shall forthwith elect another President or the Vice-President in the prescribed manner.

Consideration and discussion of Gaon Sabha Budget.

19. The Gaon Sabha shall at each Kharif meeting consider and discuss the budget of the Gaon Sabha submitted by the Gaon Panchayat for the following year and at its Rabi meeting shall consider the accounts of the preceding year. At both the meetings the Gaon Sabha shall consider biennial report of the business submitted by the President.

CHAPTER IV

ADMINISTRATION OF GAON PANCHAYAT—ITS POWERS, DUTIES AND FUNCTIONS

Meetings and their procedure.

20. (a) The meeting of the Gaon Panchayat shall be held at least once a month.

(b) The President or Vice-President on their own initiative or on the requisition of at least one-third of the members of the Gaon Panchayat may call an emergent meeting of the Gaon Panchayat in the manner prescribed.

(c) The time and place of the sitting and the procedure at a meeting of the Gaon Panchayat shall be in accordance with the rules made under this section.

Resolutions and questions.

21. A member of a Gaon Panchayat may at any meeting move any resolution and put questions to the President or Vice-President on matters connected with the administration of the Gaon Panchayat in the manner prescribed.

Powers of President and Vice-President.

22. The President and Vice-President shall exercise such executive powers for the purpose of carrying out the provisions of this Act as may be prescribed by rules made under this Act.

23. It shall be the duty of every Gaon Panchayat, so far as its funds may allow, to make reasonable provisions within its jurisdiction, in the manner prescribed, for— Duties and functions.

- (a) construction, repairs, maintenance, cleaning and lighting of public streets;
- (b) medical relief ;
- (c) sanitation and taking curative and preventive measures to remove and to stop the spread of an epidemic ;
- (d) upkeep, protection and supervision of any buildings or other property which may belong to the Gaon Sabha or which may be transferred to it for management;
- (e) registering births, deaths and marriages and maintenance of the register mentioned in section 9;
- (f) removal of encroachments on public streets, public places and property vested in the Gaon Sabha;
- (g) regulating places for the disposal of the dead bodies of human beings and animals and of other offensive matter;
- (h) regulation of *mulas*, markets and *hats* within its area, except those managed by the State Government;
- (i) establishing and maintaining primary schools for boys and girls;
- (j) establishment, management and care of common grazing grounds and land for the common benefit of the persons residing within its jurisdiction ;
- (k) construction, repair and maintenance of public wells, tanks and ponds for the supply of water for drinking, washing and bathing purposes, and regulations of sources of water supply for drinking purposes;
- (l) regulating the construction of a new building or the extension or alteration of any existing building;
- (m) assisting the development of agriculture, commerce and industry;
- (n) rendering assistance in extinguishing fire and protecting life and property when fire occurs;
- (o) the maintenance of such records relating to cattle census, population census and other statistics as may be prescribed ;
- (p) maternity and child welfare;
- (q) allotment of places for storing manure;
- (r) the promotion of co-operative farming;
- (s) the relief of the destitute and the sick;
- (t) construction and maintenance of public latrines;
- (u) the doing of any other thing the expenditure on which is declared by the State Government to be an appropriate charge on the fund of the Gaon Sabha;

- (v) any other measure of public utility calculated to promote the moral and material well-being or convenience of the villagers:

Provided that nothing in this section shall be deemed to impose any duty or confer any power on a Gaon Sabha with respect to any matter under the direct administrative control of any department of the State Government, unless the State Government delegates such duty or power:

Discretionary duties and functions.

24. A Gaon Panchayat may also make provision in the prescribed manner within its jurisdiction for :—

- (a) planting and maintaining trees at the sides of public streets and in other public places;
- (b) the improved breeding and medical treatment of cattle and prevention of disease in them;
- (c) filling in of insanitary depressions and levelling of land ;
- (d) organizing, subject to rules prescribed, a Village Volunteer Force for watch and ward, for assisting Gaon Panchayat and Nyaya Panchayat in the discharge of their functions and for the service of summons and notices issued by them;
- (e) assisting and advising agriculturists in the obtaining of Government loans and in the repayment thereof, in the liquidation of old debt and generally in the establishment of sound credit system according to law;
- (f) development of co-operation and establishment of improved seed and implement stores ;
- (g) relief against famine or other calamities;
- (h) extension of the *abadi*;
- (i) establishment and maintenance of a library or reading room;
- (j) establishment and maintenance of an *akhara* or a club or any other place for recreation and games;
- (k) regulating the collection, removal and disposal of manure and sweepings ;
- (l) prohibiting or regulating the curing, tanning and dyeing of skins within 220 yards of the *abadi*;
- (m) setting up organizations to promote goodwill and social harmony between different communities;
- (n) public radio sets and gramophones.

Power of Gaon Panchayat as to public streets, water ways and other matters.

25. A Gaon Panchayat shall have control of all public streets, or waterways situated within its jurisdiction not being a private street or waterway and not being under the control of State Government or any other authority specified by the state Government and may do all things necessary for the maintenance and repairs thereof and may—

- (a) construct new bridges or culverts ;
- (b) divert, discontinue, or close any public street, culvert or bridge;
- (c) widen, open, enlarge or otherwise improve any public street, culvert or bridge with minimum damage to the neighbouring fields;
- (d) deepen or otherwise improve waterways;
- (e) with the sanction of the Prescribed Authority undertake small irrigation projects;
- (f) cut any hedge or branch of any tree projecting on a public street ;
- (g) notify the setting apart of any public watercourse or tank or well for drinking or culinary purposes, and prohibit bathing, washing of clothes and animals or doing of other acts likely to pollute the course, tank or well so set apart :

Provided that without the prior permission of the Chief Engineer, Public Works Department, nothing shall be done under clause (g) which may affect any canal or canal system.

26. (1) Subject to the rules made under this Act a Gaon Panchayat may, by order in writing, call upon persons resident in the Gaon Panchayat area to perform such labour, as it may specify in the order, on works of public utility which, in the opinion of the Gaon Panchayat, are likely to benefit persons and which the Gaon Panchayat has undertaken to construct, maintain or repair under sections 23, 24 and 25.

Imposition of compulsory service for public purposes.

(2) A person required to perform labour under the provisions of sub-section (1) may have it performed by another on his behalf or pay for its performance at such rates as may, having regard to prevailing rates, be determined by the Gaon Panchayat.

(3) Any person who, without any sufficient cause, neglects or refuses to perform the labour referred to in sub-section (2) or does not get the labour performed or does not pay for the performance of the labour, as provided in sub-section (2) shall be punishable with fine which may extend to 50 rupees.

27. Where a group of neighbouring Gaon Sabhas decides to establish and maintain a primary school or an Ayurvedic or Unani Hospital or dispensary the Gaon Sabhas thereof may with the permission of the Prescribed Authority do so with such assistance as may be provided by the State Government.

Establishment of primary school and hospital or dispensary for a group of Gaon Sabhas.

28. The Gaon Panchayat, if so directed by a general or special order of the State Government, shall assist any Government servant in the performance of his duties within its area.

Assistance to Government servants.

29. The Gaon Panchayat may make to the Prescribed Authority any representation concerning the welfare of the persons residing within its jurisdiction.

Representation and recommendations by Gaon Panchayat.

Enquiry into the conduct of certain officials.

30. (1) On a complaint made by any person against a vaccinator, patwari, police constable, forest guard or peon about his misconduct in his official capacity in the area under the control of a Gaon Sabha, the Gaon Panchayat concerned may enquire into the matter and report the result of its enquiry to the officer to whom such official is subordinate.

(2) The officer concerned may enquire into the report in such manner and take such action thereon as he deems fit and may inform the Gaon Panchayat of the action taken.

(3) Nothing in sub-section (1) shall be construed as empowering the Gaon Panchayat to summon the officials specified in the said sub-section, or to exercise control over them.

Power to contract for collection of taxes and other dues for Government.

31. A Gaon Panchayat may as prescribed in respect of any area within its jurisdiction enter into a contract with the State Government to collect any taxes or dues payable to the Government, on being allowed by the State Government such collection charges as may be prescribed.

Appointment and powers of sub-committees.

32. (1) A Gaon Panchayat may, for the discharge of its administrative functions, appoint, from amongst its members, sub-committees, each consisting of not more than 5 members.

(2) A sub-committee shall exercise such powers as may be delegated to it by the Gaon Panchayat and shall be subject to the general control of the Gaon Panchayat.

Special powers.

33. All the duties, powers and functions of the Gaon Sabha except those under Chapter III of this Act shall be exercised and performed or discharged by the Gaon Panchayat.

Liability for causing loss.

34. (1) Every member of the Gaon Panchayat or any Joint Committee or any other Committee constituted under this Act shall be liable for any loss, waste or improper use of any money or property belonging to the Gaon Panchayat, if such loss, waste or improper use is a direct consequence of his neglect or misconduct while a member of the Gaon Panchayat, Joint Committee or other Committee and suit for compensation may be instituted against him by the Gaon Panchayat with the previous sanction of the Prescribed Authority.

(2) If the Prescribed Authority sanction the institution of a suit under sub-section 1, or refuses to grant the sanction, the member concerned, or the Gaon Panchayat, as the case may be, may, within thirty days of such sanction or refusal, appeal to the State Government or an appellate Prescribed Authority against the said sanction or refusal.

(3) The State Government may on its own initiative institute a suit mentioned in sub-section (1).

CHAPTER V

ACQUISITION OF LAND, GAON FUND AND PROPERTY

Power to acquire land.

35. Where a Gaon Sabha or a number of Gaon Sabhas, which have combined under the provisions of section 17 or

27 require any land to carry out any purpose of this Act, it or they shall first try to have the land by private negotiation and if the parties concerned fail to arrive at an agreement, such Gaon Sabha or Gaon Sabhas may make an application in the prescribed form to the Collector to acquire the land and the Collector may acquire such land for such Gaon Sabha or Gaon Sabhas.

Explanation.—The expression “Land” includes benefits arising out of land, things attached to the earth or permanently fastened to anything attached to the earth.

36. (1) The State Government may transfer to a Gaon Sabha the ownership or management or both of any of its public property, other than land, situated within the jurisdiction of such Gaon Sabha, on such conditions as may be prescribed in this behalf. Property vested in the Gaon Sabha.

(2) Any other property situated within the jurisdiction of the Gaon Sabha, which is used by the village communities for common or public purposes, if it does not belong to any individual or the State Government, shall vest in the Gaon Sabha.

37. Where any dispute arises as regards the ownership of any property mentioned in sub-section (2) of section 36 between a Gaon Sabha and any person, the Gaon Panchayat shall give such person a reasonable opportunity of being heard and then decide whether to treat the said property as the property of the Gaon Sabha. Disposal of claims.

38. (1) Every Gaon Sabha shall have a fund which will be utilised by the Gaon Panchayat for meeting charges in connection with its duties under the Act, subject to the provisions of the Budget passed and any sum allotted by the State Government in respect of the grant-in-aid. Gaon fund.

(2) The following shall be credited to the Gaon Fund :—

- (a) The proceeds of any tax or cess imposed under this Act.
- (b) The balance, if any, standing to the credit of the village panchayat previously in existence under the Tahsil Judicial Committee Ordinance, VIII of 1948, and His Highness the Nawab of Bhopal's Farman published under notification No. (2) of 30th May 1946 entitled “Village Panchayat”.
- (c) All sums ordered by a court to be placed to the credit of the Gaon Fund.
- (d) The sale proceeds of all dust, dirt, dung or refuse including the dead bodies of animals collected by the servants of Gaon Panchayat.
- (e) All sums received under section 122.
- (f) Such portion of the rent or other proceeds of *Nazul* property as the State Government may direct to be placed to the credit of the Gaon Fund.

- (g) Sums contributed to the Gaon Fund by any local authority.
- (h) All sums received by way of loan or gift.
- (i) Such other sums as may be assigned to the Gaon Fund by any special or general order of the State Government.
- (j) All sums received by Gaon Panchayat from the State Government under sections 31 and 130(2) or any other law.

(3) Nothing in this section shall affect any obligation of a Gaon Sabha arising from a trust legally imposed upon or accepted by it.

Custody of Fund.

39. All moneys at the credit of the Gaon Fund shall be kept in the name of the Gaon Panchayat in the Post Office Savings Bank or Co-operative Bank, or, subject to such terms and conditions as may be prescribed, with a local banker or other person approved by the Prescribed Authority.

Grant-in-aid from Gaon Fund.

40. No grant-in-aid shall be made out from the Gaon fund for any purpose other than those specified in sections 23 and 24, 25 and 29 to any person or institution except with the previous sanction of the Prescribed Authority.

CHAPTER VI

TAXES, ACCOUNTS AND BUDGET

Compulsory taxes.

41. (1) Subject to the prescribed rules and any order made by the State Government in this behalf, a Gaon Sabha shall impose cesses and realise—

- (a) A tax on Land Revenue payable under the provisions of the Bhopal State Land Revenue Act, 1932, not exceeding one anna in a rupee of such revenue, the tax aforesaid being payable by the person or persons severally or jointly cultivating such land :

Provided that if any land is cultivated by a Shikmi, the tax imposed under this clause shall be payable by such Shikmi and the occupant in the proportion of 3/4th and 1/4th respectively.

- (b) A tax on trade, calling and profession not exceeding such rate as may be prescribed.
- (c) A tax on buildings owned by persons who do not pay any of the aforesaid taxes not exceeding such rate as may be prescribed.
- (d) Fees on the persons exposing goods for sale in any market or place, belonging to or under the control of the Gaon Sabha, or for the use of any building or structure therein.
- (e) Fees on the registration of animals sold in any market or place belonging to or under the control of the Gaon Sabha.

42. With the approval of the Prescribed Authority and subject to rules made under this Act a Gaon Sabha may by a majority of two-thirds of its members impose any of the following taxes, tolls, fees or rates— Optional taxes.

- (a) a toll on vehicles, pack animals and porters bringing goods for sale within the area of the Gaon Sabha.
- (b) A water rate where water is supplied by the Gaon Sabha.
- (c) Fees for cleansing private latrines payable by the owners or occupiers, of the houses to which the private latrines are attached where such cleansing is done by the Gaon Sabha agency.
- (d) A tax payable by the owners of animals kept within the Gaon Sabha Area.
- (e) A fee payable by the owners of vehicles where such vehicles are kept within the Gaon Sabha Area.
- (f) A lighting rate where the lighting of public streets, places, and buildings is undertaken by the Gaon Sabha.
- (g) A drainage fee where a system of drainage has been introduced by the Gaon Sabha.
- (h) Any other tax, fee or rate approved by the State Government.

Explanation :—

1. The tolls imposed under clause (a) may vary according to the class of goods brought for sale.
2. No objection shall be taken to any assessment nor shall the liability of any person to be assessed or taxed be questioned otherwise than in accordance with the provisions of this Act or the rules made thereunder.
3. Any tax, toll, fee or rate imposed or levied under the provisions of this section shall be payable in such manner as may be prescribed.

43. The Gaon Panchayat may with the consent of the person from whom any tax, toll, fee or rate under sections 41 and 42 is leviable, commute the payment into a contribution of labour not exceeding 30 days' labour in a year at such intervals, for such period of time and on such conditions as may be prescribed. Commutation by labour.

44. Subject to the rules made under this Act a Gaon Panchayat may exempt any person or class of persons from a tax, toll, fee or rate payable under this Act. Power to exempt persons from payment, etc.

45. Any arrears of a cess, tax, toll, fee or rate imposed under this Act shall be recoverable by the Collector as if it were arrears of land revenue. Recovery of arrears.

46. Any cess, tax, toll, fee or rate imposed under sections 41 and 42 may at any time be cancelled or thereafter re-imposed by the State Government and the State Government may at any time suspend or thereafter re-impose the collection thereof: Cancellation or suspension of taxation.

Provided that no arrears shall be recovered while the collection is suspended.

Realization of dues and accounts. **47.** The Gaon Panchayat shall, as prescribed, arrange for the realisation of the taxes and dues, custody of its funds and maintenance of its accounts.

Audit. **48.** The accounts of every Gaon Sabha shall be audited every year as prescribed.

Preparation of Budget. **49.** (1) (a) Every Gaon Panchayat shall prepare a budget estimate of its income and expenditure for the year commencing on the 1st day of April and lay it before the Kharif Meeting of the Gaon Sabha, for such discussion and suggestion as the Gaon Sabha may deem necessary.

(b) Every Gaon Panchayat shall prepare and lay before the Rabi Meeting of the Gaon Sabha its report including the account of its actual and expected receipts and expenditure for the year ending on 31st March, last preceding such meetings.

(2) The Gaon Sabha may discuss the budget presented by the Gaon Panchayat and shall refer it back to the Gaon Panchayat with recommendations, if any, in the manner prescribed, within a fortnight of its receipt, and the Gaon Sabha may likewise pass any recommendatory resolution in respect of the report or any other matter.

(3) (a) On the return of the budget from the Gaon Sabha under sub-section (2) the President shall, within a week of its receipt, call an extraordinary meeting of the Gaon Panchayat to reconsider the budget in the light of the recommendations, if any, made by the Gaon Sabha and finalise and pass the budget with any such modification or without them.

(b) Subject to rules made in this behalf, the budget shall take effect after it has been approved by the Prescribed Authority and a Gaon Panchayat may incur any expenditure under the heads of the budget in excess of the amount approved under that head with variation or alteration of the budget, with the approval of the Prescribed Authority.

CHAPTER VII

NYAYA PANCHAYAT

Circle for Nyaya Panchayat. **50.** The Prescribed Authority shall divide a district into circles each circle comprising as many areas, subject to the jurisdiction of Gaon Sabhas, as may be expedient and establish a Nyaya Panchayat for each such circle :

Provided that the areas of the Gaon Sabhas within each circle shall as far as possible, be contiguous.

Constitution of Nyaya Panchayat. **51.** There shall be nominated by the Collector in his district on the recommendation of the Judicial Officer concerned, 5 Panches of prescribed qualifications from the Gaon Panchayat of every Gaon Sabha in a circle to act as Panches.

in the Nyaya Panchayat of that circle. The panches so nominated from amongst all the Gaon Sabhas in a circle shall form a Panel.

52. The Collector in his district on the recommendations of the Judicial Officer concerned shall nominate a person from amongst the Panches nominated under section 51, who is able to record proceedings, to act as Sarpanch of the Nyaya Panchayat for each circle. Nomination of Sarpanch.

53. The term of office of the Sarpanch or Panch of a Nyaya Panchayat shall be co-extensive with the term of his office as member of the Gaon Panchayat. Term of office of Panch.

54. Every Panch or Sarpanch nominated under sections 51 and 52 respectively, shall, as soon as possible after his nomination, take oath of office in the manner prescribed. Oath of office.

55. A Panch or Sarpanch may submit the resignation of his office to the prescribed authority. Resignation.

56. (1) The Sarpanch shall, for the trial of every case, suit or proceeding form a bench of five panches from the panel; provided that at least one of the panches in the bench shall be a person who is able to record evidence and proceedings. Formation of bench.

(2) Every such bench shall include one Panch who resides in the area of the Gaon Sabha in which the plaintiff of a suit or the complainant of a case resides and likewise one Panch residing in the area of the Gaon Sabha in which the defendant or the accused resides, and three Panches residing in the area of the Gaon Sabha in which neither party resides.

(3) No Panch or Sarpanch shall take part in any case or suit to which he or any of his near relations, employers, employees or partners in business, is a party, or in which any of them may be personally interested.

(4) Notwithstanding anything contained in this section the State Government may, by rules, prescribe the constitution of special benches for determining any dispute arising between any parties or Gaon Sabhas of different circles or for any other purpose.

57. If there is a vacancy of a Panch in the Panel by reason of his death, removal or resignation, it shall be filled for the unexpired portion of his term in the manner provided in section 51 and if the panch vacating the office was a Sarpanch he shall be nominated in the manner provided in section 52. Filling of casual vacancies.

58. (1) Notwithstanding anything contained in the Criminal Procedure Code, 1898 (V of 1898), every case instituted under this Act shall be instituted before the Sarpanch of the Nyaya Panchayat of the circle in which the offence is committed. Territorial jurisdiction.

(2) Notwithstanding anything contained in the Civil Procedure Code, 1908 (V of 1908), every suit instituted

under this Act shall be instituted before the Sarpanch of the Nyaya Panchayat of the circle in which the defendant or any of the defendants, where they are more than one, ordinarily resides or carries on business at the time of the institution of the suit irrespective of the place where the cause of action arose.

Extent of criminal Jurisdiction.

59. (1) Offences specified in Schedule I of this Act if committed within the jurisdiction of a Nyaya Panchayat, as well as abetments of and attempts to commit such offences shall be cognisable by such Nyaya Panchayat:

Provided that no Nyaya Panchayat shall take cognizance of any case in which the Police have taken cognizance and have sent the accused to a Magistrate under sub-section 1 of section 170 of the Code of Criminal Procedure, 1898.

(2) No Nyaya Panchayat shall take cognizance of any offence except upon complaint, written or oral, and against the person named by the complainant.

(3) Any case relating to an offence under sections 143, 145, 151 or 153 of the Indian Penal Code, 1860 (XLV of 1860) pending before any court may be transferred for trial to the Nyaya Panchayat, if in the opinion of such court the offence is not serious.

(4) The State Government may, on the recommendation of the District Magistrate or otherwise, for reasons to be recorded in writing, withdraw from a Nyaya Panchayat the power to take cognizance of any or all the offence specified in Schedule I.

(5) The State Government may, on the recommendation of the District Magistrate or otherwise by notification in the State Gazette, empower a Nyaya Panchayat to take cognizance of offences under any section of the Indian Penal Code (XLV of 1860) subject to such restrictions as may be deemed necessary.

Security for keeping the peace.

60. (1) Whenever the Sarpanch of a Nyaya Panchayat has reason to apprehend that any person is likely to commit a breach of peace or disturb public tranquility, he may call upon such person to show cause why he should not execute a bond for an amount not exceeding Rs. 100, with or without sureties, for keeping the peace for a period not exceeding 15 days.

(2) The Sarpanch shall, after issue of such notice, constitute within three days a Bench to deal with the matter, provided that at least one Panch of the Bench shall, if possible, belong to the Gaon Sabha in which such person resides.

The Bench may either confirm the order or discharge the notice after hearing such person and such witnesses as he may desire to produce.

(3) In case the Bench has confirmed the order under sub-section (2) above, the person called upon to execute the bond shall do so, with or without sureties, within 3 days of such order; if he fails to comply with the order the amount of security shall become realizable as a fine imposed under this Act.

61. No Nyaya Panchayat shall inflict a substantive sentence of imprisonment. Bar to inflict sentence of imprisonment.

62. No court shall take cognizance of any case or suit which is cognizable under this Act by a Nyaya Panchayat unless an order has been passed by a Sub-Divisional Magistrate or a Sub-Judge under section 96. Exclusion of jurisdiction of other courts.

63. At any stage of proceedings in a criminal case pending before a Magistrate if it appears to him that the case is triable by a Nyaya Panchayat, he shall at once transfer the case to that Nyaya Panchayat which shall try the case *de novo*. Transfer of criminal proceedings to the Nyaya Panchayat in certain cases.

64. A Nyaya Panchayat may dismiss any complaint if, after examining the complaint and taking such evidence as he produces, it is satisfied that the complaint is frivolous, vexatious or untrue. Summary dismissal of complaint.

65. If at any time it appears to a Nyaya Panchayat :— Return of complaint.

- (a) that it has no jurisdiction to try any case before it; or
- (b) that the offence is one for which it cannot award adequate punishment; or
- (c) that the case is of such nature or complexity that it should be tried by a regular court;

it shall return the complaint to the complainant directing him to file it before the Sub-Divisional Magistrate, having jurisdiction to try such case.

66. No Nyaya Panchayat shall take cognizance of any offence in which the accused :— Certain persons not to be tried by the Panchayat.

- (a) has been previously convicted of an offence punishable with imprisonment of either description for a term of three years or more; or
- (b) has been previously fined for theft by any Nyaya Panchayat; or
- (c) is registered as a habitual offender under section (3) of the Bhopal Restrictions of Habitual Offenders Act, 1952; or
- (d) has been bound over to be of good behaviour under section 109 or 110 of the Code of Criminal Procedure 1898; (V of 1898); or
- (e) has been previously convicted for gambling;
- (f) is a panch of a Nyaya Panchayat;
- (g) is a public servant as defined in section 21 of the Indian Penal Code other than a "Kotwar" or a village watchman.

67. In imposing any fine the Nyaya Panchayat may order any portion or the whole of the fine recovered from the accused to be paid to the complainant:— Compensation to Complainant.

- (a) in defraying the expenses properly incurred in the case by the complainant, or

- (b) as compensation for any material damage or loss caused by the offence committed.

68. If a Nyaya Panchayat is satisfied after enquiry that a case brought before it was false, frivolous or vexatious, it may order the complainant to pay the accused such compensation, not exceeding five rupees, as it thinks fit.

69. A Magistrate may direct an enquiry to be made under section 202 of the Code of Criminal Procedure, 1898 (V of 1898) by a Nyaya Panchayat in any case in which the offence is committed within the territorial jurisdiction of such Nyaya Panchayat and the Nyaya Panchayat shall enquire into the case and submit its report to the said Magistrate.

70. The jurisdiction of a Nyaya Panchayat shall extend to any suit of the following description if its value does not exceed one hundred rupees—

- (1) (a) a suit for money due on contract, other than a contract in respect of immovable property;
- (b) a suit for the recovery of movable property or for the value thereof;
- (c) a suit for compensation for wrongfully taking or injuring a movable property; and
- (d) a suit for damage caused by cattle trespass.

(2) The State Government may, by Notification in the Official Gazette, direct that the jurisdiction of any Nyaya Panchayat shall extend to all such suits of such value not exceeding five hundred rupees as may be specified in the Notification.

71. Parties to a suit may, by a written agreement, refer any suit of the nature mentioned in section 70, to a Nyaya Panchayat for decision irrespective of the value of the suit and the Nyaya Panchayat shall, subject to rules prescribed, determine and dispose of such suit under this Act.

72. Notwithstanding anything contained in this Act or in any other law for the time being in force, it shall be lawful for a Nyaya Panchayat to decide any civil dispute arising in its local area and not pending in any court in accordance with any settlement, compromise or on oath agreed upon by the parties and likewise decide a case if compoundable.

73. A Nyaya Panchayat shall have no jurisdiction to take cognizance of the following suits :—

- (1) a suit for a balance of partnership account, unless the balance has been struck by the parties or their agents;
- (2) a suit for a share or part of a share under an intestacy or for a legacy or part of a legacy under a will;
- (3) a suit by or against the Government or a public servant for acts done in his official capacity;

- (4) a suit by or against a minor or a person of unsound mind;
- (5) a suit cognizable by a revenue court under the Bhopal State Land Revenue Act, 1932.

74. (1) Every suit instituted before a Nyaya Panchayat shall include the whole of the claim which the plaintiff is entitled to make in respect of the matter in dispute but he may relinquish any portion of his claim in order to bring the suit within the jurisdiction of the Nyaya Panchayat. Suit to include the whole claim.

(2) If a plaintiff omits to sue in respect of or relinquishes any portion of it, he shall not afterwards sue in respect of the portions so omitted or relinquished.

75. Every suit instituted before a Nyaya Panchayat after the period of limitation prescribed therefor in Schedule II of this Act shall be dismissed even though limitation has not been set up as a defence. Limitations.

76. The decision of a Nyaya Panchayat on the question of title, legal character, contract or obligation shall not bind the parties except in respect of the suit in which such matter is decided. Effect of the decision of Nyaya Panchayat.

77. (1) No Nyaya Panchayat shall try any suit or issue in respect of any matter which is pending for decision in or has been heard or decided by a court of competent jurisdiction in a former suit between the same parties under whom they or any of them claim. Provisions relating to res judicata and cases pending in other courts.

(2) Where a case is pending in any court against an accused person in respect of any offence or where an accused person has been tried for any offence, no Nyaya Panchayat shall take cognizance of any such offence or on the same facts of any other offence of which the accused might have been charged or convicted.

78. Where a case or suit is maintainable in more than one Nyaya Panchayat the plaintiff or the complainant, as the case may be, may bring the case or suit in any one of such Nyaya Panchayat. Any dispute regarding jurisdiction shall be decided by the Sub-Divisional Magistrate or the Sub-Judge having jurisdiction, as the case may be. Concurrent jurisdiction

79. Any person who wishes to institute a suit or case under this Act before a Nyaya Panchayat may make an application orally or in writing to the Sarpanch of the Nyaya Panchayat or in the case of his absence from the circle to such other Panch as may have been appointed in this behalf and shall at the same time pay the prescribed fee. The Court Fees Act, 1870 (VII of 1870), shall not apply to Nyaya Panchayat except as may be prescribed. In every suit, the plaintiff shall state its value. Institution of suits and cases.

80. (1) Where a suit or case is instituted orally, the Sarpanch or Panch receiving the application shall record, without delay, the prescribed particulars and the signature or thumb impression of the applicant shall be taken thereon. Substance of the application to be recorded in register.

(2) The Sarpanch or in his absence the Panch mentioned in section 79 shall thereupon appoint a Bench of the Nyaya Panchayat under section 56 and refer the said application to that bench for disposal and shall also fix a date for the first hearing of the application before the said bench and give notice of the said date to the applicant and to the members thereof.

Conduct of proceedings for disposal of suits and cases. **81.** Every suit or case instituted in accordance with provisions of section 80 shall be brought before the bench of the Nyaya Panchayat on the date fixed and the bench shall, unless the Sarpanch is a member of it, choose one of their members to be the chairman of that bench who shall conduct the proceedings.

Provisions relating to evidence. **82.** The Nyaya Panchayat shall receive such evidence in a suit or case as the parties may adduce and may call for such further evidence as, in their opinion, may be necessary for the determination of the points at issue. It shall be the duty of the Nyaya Panchayat to ascertain the facts every suit or case before it by every lawful means in its power and thereafter to make such decree or order, with or without costs, as it may deem just and legal. It may make local investigations in the village to which the dispute relates. It shall follow the procedure prescribed by or under this Act. The Code of Civil Procedure, 1908 (V of 1908), the Code of Criminal Procedure, 1898 (V of 1898), the Indian Evidence Act 1872 (I of 1872) and the Indian Limitation Act, 1908 (IX of 1908) shall not apply to any suit or case in a Nyaya Panchayat except as provided in this Act or as may be prescribed.

Ex parte proceedings. **83.** (1) If the plaintiff, the complainant, or the applicant fails to appear after having been informed of the time and place fixed for hearing the Nyaya Panchayat may dismiss the suit or case or pass such order as it may deem fit.

(2) The Nyaya Panchayat may hear and decide the suit or proceeding in the absence of the defendant or opposite party if the summons have been served upon him or if he has been informed of the time and place fixed for hearing.

Issue of summons and production of documents. **84.** A Nyaya Panchayat may, if it considers the evidence of or the production of a document by any person necessary in a suit or case, issue and cause to be served in the prescribed manner a summons on such person to compel his attendance or to produce or cause the production of such document and such person shall be bound to comply with the direction contained in the summons.

Summons to be in a prescribed form. **85.** A Nyaya Panchayat after an application is made under section 72 shall, unless it has been dismissed or otherwise disposed of under the provisions of this Act, cause summons in prescribed form to be served in the prescribed manner on the defendant or the accused person or an opposite party requiring him to attend and produce his evidence at such time and place as may be stated in the summons and shall at the same time direct the plaintiff or complainant or the applicant to attend and produce his evidence at such time and place.

86. If any person who is summoned by a Nyaya Panchayat by a written order to appear to give evidence or to produce any document before it wilfully disobeys such summons or notice or order, the Nyaya Panchayat may make a complaint to the Magistrate having jurisdiction and the said person shall be punishable with fine which may extend to twenty-five rupees : Penalty for failing to appear before Nyaya Panchayat.

Provided that no woman shall be compelled to appear in person before the Nyaya Panchayat. She may be examined on commission in the manner prescribed :

Provided also that if a document is produced in obedience to a summons issued under this section, the Nyaya Panchayat shall cause the document to be copied, mark the copy after comparing with the original to be true copy and return the original document to the person producing the same.

87. A Nyaya Panchayat may dismiss any suit after examining the plaintiff or the applicant if it is satisfied that the suit or proceeding is frivolous, vexatious or false. Dismissal of suit, etc.

88. If on the application of the decree holder or the judgment debtor the Nyaya Panchayat which passed the decree finds, after enquiry, that the decree has been satisfied wholly or in part, the Nyaya Panchayat shall record the fact in the prescribed register. Payment of adjustment of decree to be recorded.

89. (1) A decree or order passed by a Nyaya Panchayat shall be executed by it in such manner as may be prescribed. If the defendant's property is situated outside the jurisdiction of the Nyaya Panchayat passing such decree or order it may transfer the decree or order for execution in the prescribed manner to the Nyaya Panchayat within whose jurisdiction the property may be situated and if there be no such Nyaya Panchayat then to the Court of the Sub-Judge within whose jurisdiction it may be situated. Execution of decree.

(2) If a Nyaya Panchayat finds any difficulty in executing a decree, it may forward the decree to the Sub-Judge, and the Sub-Judge shall then execute the decree as if it were a decree passed by him.

90. (1) If after the services of the summons provided for in section 84 the accused in a criminal case fails to attend and the majority of the Nyaya Panchayat trying the case is of opinion that he is evading attendance, the Nyaya Panchayat may apply to the District Magistrate who may compel his appearance before the Nyaya Panchayat as if the District Magistrate were a Magistrate trying the case and the Nyaya Panchayat were his court. Non-appearance of accused.

(2) When any accused person has been, under sub-section (1), compelled to appear before a Nyaya Panchayat it shall forthwith take his statement, and thereafter his attendance shall not be deemed to be compulsory.

91. The fine imposed in a case by a Nyaya Panchayat shall be recoverable in the manner provided in section 386 of the Code of Criminal Procedure, 1898 (V of 1898), but if Recovery of fine.

the Nyaya Panchayat finds any difficulty in its recovery, it may request the Sub-Divisional Magistrate within whose jurisdiction the Nyaya Panchayat lies to recover it and shall recover it as if the sentence of fine had been passed by him.

Nyaya Panchayat not to revise or alter its decision. **92.** (1) Except as provided in sub-section (2) or to correct a clerical error, a Nyaya Panchayat shall have no power to cancel, revise or alter any decree, order or judgment passed by it.

(2) A Nyaya Panchayat may, for sufficient reasons to be recorded, on application made within one month of the date of the decree or order or knowledge thereof, in case personal service of summons has not been effected, set aside the *ex parte* order and hear the suit or proceeding which had been decided *ex parte*.

No legal practitioner to appear. **93.** No legal practitioner shall appear, plead or act, on behalf of any party in any suit or case before a Nyaya Panchayat.

Appearance in person or by representative. **94.** Subject to the provisions of section 93 any party to a suit or case may appear before a Nyaya Panchayat either in person or by such servant (not being a tout), partner, relation or friend authorised by him as the Nyaya Panchayat may admit as a fit person to represent him.

Majority to prevail. **95.** In the event of any disagreement between the Panches the opinion of the majority shall prevail in the manner prescribed.

Revisional powers of Sub-Divisional Magistrate & Sub-Judge over Nyaya Panchayat. **96.** (1) If there has been a miscarriage of justice or if there is an apprehension of miscarriage of justice in any case or suit the Sub-Divisional Magistrate having jurisdiction in respect of any case and the Sub-Judge having jurisdiction in respect of any suit may, on the application of any party or on his own motion, at any time in a pending case or suit, as the case may be, and within sixty days from the date of a decree or order call for the record of the case or suit, as the case may be, from the Nyaya Panchayat and may for reasons to be recorded in writing—

(a) cancel the jurisdiction of the Nyaya Panchayat with regard to any suit, or case, or

(b) quash any decree or order passed by the Nyaya Panchayat at any stage.

(2) When an order has been passed by the Sub-Divisional Magistrate under sub-section (1) in respect of any case, trial or complaint or otherwise in respect of the same offence it may be started in the court of Magistrate having jurisdiction to try the case.

(3) When an order has been passed by a Sub-Judge under sub-section (1) in respect of any suit, the plaintiff may institute a suit on the same cause of action and for the same relief in the Competent Court and the period from the date of the institution of the suit before the Nyaya Panchayat to the date of such order shall be excluded in computing the period of limitation for the fresh suit.

(4) Except as aforesaid a decree or order passed by a Nyaya Panchayat in any suit, case or proceeding under this Act shall be final and shall not be open to revision or appeal in any court.

If any application under sub-section (1) is frivolous the applicant may be fined upto Rs. 5 by the Sub-Divisional Magistrate or Sub-Judge as the case may be.

CHAPTER VIII

EXTERNAL CONTROL AND APPEALS

87. The State Government may—

Inspection.

- (a) cause to be inspected any immovable property owned by a Gaon Sabha, used or occupied by a Gaon Panchayat or a Joint Committee, or any work in progress under the direction of such Gaon Panchayat or Joint Committee ;
- (b) by an order in writing call for and inspect a book or document in the possession or under the control of a Gaon Panchayat or a Joint Committee ;
- (c) by an order in writing require a Gaon Panchayat or Joint Committee to furnish such statement, report or copies of documents, relating to the proceedings or duties of the Gaon Panchayat or such committee as it thinks fit;
- (d) record in writing for the consideration of a Gaon Panchayat or Joint Committee any observation which it thinks proper in regard to the proceedings or duties of such Gaon Panchayat or Joint Committee.

98. The State Government may institute any enquiry in respect of any matter relating to a Gaon Sabha, a Gaon Panchayat or a Nyaya Panchayat. Power of enquiry.

99. The State Government may dissolve a Gaon Panchayat, a Joint Committee or Nyaya Panchayat if in its opinion such Gaon Panchayat, Joint Committee or Nyaya Panchayat has exceeded or abused or continuously failed to perform the duties imposed by this Act or any rule made thereunder. Dissolution.

When a Gaon Panchayat, a Joint Committee or a Nyaya Panchayat is dissolved, it shall be reconstituted in the manner prescribed in this Act.

100. (1) A member of a Gaon Panchayat or Joint Committee or a Panch or Sarpanch may be removed at any time by the Prescribed Authority in the manner and for the reasons prescribed. Removal of member of Gaon Panchayat, Joint Committee or Nyaya Panchayat.

(2) A person removed under sub-section (1) shall not be entitled to re-election or nomination for a period of three years.

Prohibition of certain proceedings. **101.** (1) The Prescribed Authority or any other officer specially empowered in this behalf by the State Government on information received or on his own initiative may, by order in writing, prohibit the execution or further execution of a resolution or order passed or made under this or any other enactment by a Gaon Sabha, Gaon Panchayat or a Joint Committee, or any officer or servant thereof if in his opinion such resolution or order is of a nature as to cause or likely to cause obstruction, annoyance or injury to the public or to any class or body of persons lawfully employed, or danger to human life, health or safety, or riot or affray. It may prohibit the doing or continuance by any person of any act in pursuance of or under cover of such resolution or order.

(2) Where an order is made under sub-section (1) a copy thereof with a statement of the reasons for making it shall forthwith be forwarded by the prescribed authority or the aforesaid officer to the State Government which may after calling for an explanation from the Gaon Sabha, Gaon Panchayat, Joint Committee or the officer or servant thereof and considering the explanation, if any, made by it, or him, rescind, modify or confirm the order.

(3) Where the execution or further execution of a resolution or order is prohibited by an order made under sub-section (1) and continuing in force, it shall be the duty of the Gaon Sabha, the Gaon Panchayat or the Joint Committee or any officer or servant thereof, if so required by the authority making such order, to take any action which it would have been entitled to take, if the resolution or order had never been made or passed and which is necessary for preventing any person from doing or continuing to do anything under cover of the resolution or order of which the further execution is prohibited.

Delegation of powers by State Government. **102.** The State Government may delegate all or any of the powers under this Act to any officer or authority subordinate to it subject to such conditions and restrictions as it may deem fit to impose.

Appeals. **103.** (1) Any person aggrieved by an order or direction made by a Gaon Panchayat under this Act or under any rule or bye-law may, unless otherwise prescribed, within 30 days from the date of such direction or order, exclusive of the time requisite for obtaining copy thereof, appeal to the Prescribed Authority which may vary, set aside or confirm the said order or direction and may also award costs to or against the person filing the appeal.

(2) The Prescribed Authority may, if it thinks fit, extend the period allowed by sub-section (1) for appeal.

(3) The decision of the Prescribed Authority under sub-section (1) shall be final and shall not be questioned in any court of law.

Suspension of Prosecution in certain cases. **104.** When an appeal has been filed against an order or direction in section 103 any proceedings to enforce such order or direction and any prosecution for the breach thereof

may, by order of the Prescribed Authority, be suspended pending the decision of the appeal and if such order or direction is set aside on appeal, disobedience thereof shall not be deemed to be an offence.

CHAPTER IX

PENALTIES

105. The following are the maximum fines which may be inflicted by a Nyaya Panchayat in respect of offences specified in Schedule I— Penalties for offences under Schedule I.

- (a) in respect of an offence under the Indian Penal Code not exceeding fifty rupees;
- (b) in respect of offences under other Acts not exceeding fifty rupees subject to the maximum permissible under such Acts. But no imprisonment shall be awarded in default of payment:

Provided that subject to as aforesaid the State Government may, by notification in Official Gazette, increase the limit of fine of fifty rupees to one hundred rupees in respect of any Nyaya Panchayat.

106. Whoever contravenes any provision of this Act shall be punishable, unless otherwise prescribed, with fine which may extend to ten rupees, and when the breach is a continuing one with a further fine which may extend to one rupee for each day after the first conviction during which an offender is proved to have persisted in the offence. Penalty for infringement of the provisions of the Act.

107. In making a rule the State Government and in making a bye-law the Gaon Panchayat may, with the sanction of the Prescribed Authority, direct that a breach of it shall be punishable with fine which may extend to ten rupees, and when the breach is a continuing one, with a further fine which may extend to one rupee for each day after the date of the first conviction during which the offender is proved to have persisted in the offence. Penalty for infringement of rules and bye-laws.

108. (1) Whoever removes, displaces or makes any alteration in or otherwise interferes with any pavement, gutter or other material of a public street or any fence, wall or posts thereof, or lamp post or bracket, direction post, stand post, hydrant or other such property of the Gaon Sabha without the written sanction of the Gaon Panchayat or other lawful authority shall be punishable with fine which may extend to ten rupees. Penalty for tampering with the Gaon Panchayat's property.

(2) If through any act, neglect or default on his part, a person has incurred a penalty imposed by sub-section (1) and has caused any damage to the property of a Gaon Sabha, the person incurring such penalty shall be liable to make good such damage as well as to pay such penalty, and the damages may be recovered from the offender in the prescribed manner.

109. Any person evading the payment of any tax, toll, fee or rate shall be punishable with fine which may extend to ten rupees. Penalty for non-payment of taxes.

Penalty for obstruction. **110.** Whoever voluntarily obstructs a Gaon Panchayat or any member, officer or servant thereof or any person authorized by the Gaon Panchayat in the exercise of any power under this Act shall be punishable with fine which may extend to fifty rupees.

Disobedience to notice issued. **111.** If a notice has been given to a person under the provisions of this Act or of any rule or bye-law made thereunder requiring him to execute a work in respect of any property, movable or immovable, public or private, or to provide or do or refrain from doing anything within a time specified in the notice and such person fails to comply with the notice, then—

- (a) the Gaon Panchayat may cause such work to be executed or such thing to be provided or done and may recover all expenses incurred by it on such account from the said person in the prescribed manner;
- (b) such person shall also be liable on conviction before a magistrate to a fine which may extend to ten rupees and in case of continuing breach for a further fine which may extend to one rupee for each day after the date of the first conviction during which the offender is proved to have persisted in the offence.

Penalty for juvenile offender. **112.** (1) A Nyaya Panchayat may, instead of sentencing or to fine a juvenile offender, that is to say, an offender who was on the date of the commission of the offence not over 15 years of age—

- (a) discharge him after due admonition, or
- (b) require his father or guardian to execute within such time as the Nyaya Panchayat may fix, a bond, with or without sureties, for an amount not exceeding fifty rupees, binding himself to prevent such juvenile offender from committing any of the offences referred to in Schedule I for any period not exceeding 12 months.

(2) The amount of such bond, if forfeited, shall be recoverable by the Nyaya Panchayat as if it were a fine imposed under this Chapter.

Penalty for first offender. **113.** (1) When a Nyaya Panchayat convicts a person, other than a juvenile offender referred to in section 111 against whom no previous conviction by a Nyaya Panchayat is proved it may, if it considers his release on probation of Good Conduct expedient, require him to execute, within such time as it may appoint, a bond for a sum not exceeding rupees fifty, with or without sureties, binding himself not to commit any offence referred to in Schedule I for a period not exceeding 12 months.

(2) The amount of such bond, if forfeited, shall be recoverable by the Nyaya Panchayat as if it were a fine imposed under this Chapter.

CHAPTER X

RULES AND BYE-LAWS

114. (1) The State Government may, subject to the condition of previous publication by notification in the official Gazette, make rules consistent with the Act to carry out the purposes of this Act. Power of State Government to make rules.

(2) In particular and without prejudice to the generality of the foregoing power such rules may provide for—

- (i) any matter for which power to make provision is conferred expressly or by implication on the State Government by this Act;
- (ii) the establishment of Gaon Sabhas, Gaon Panchayats and Nyaya Panchayats;
- (iii) the time and place of the meetings of Gaon Sabhas, Gaon Panchayats and Nyaya Panchayats, the manner of convening meetings and giving notice thereof;
- (iv) the conduct of proceedings including the asking of questions by members at meetings and the adjournment of meetings and also minute books of meetings;
- (v) the establishment of committees and the determination of all matters relating to the constitution and procedure of such committees;
- (vi) the suspension and removal of office bearers;
- (vii) the records and registers that shall be maintained by Gaon Panchayats and Nyaya Panchayats and the form in which they are to be maintained;
- (viii) the action to be taken on the occurrence of a vacancy in the Executive Committee, Joint Committee, any other committee and the Nyaya Panchayat;
- (ix) the authority by which disputes in relation to appointments to the Executive Committee, the Joint Committee, any other committee or the Nyaya Panchayat may be decided and the procedure to be followed therein;
- (x) the amount and nature of security to be furnished by a servant of the Gaon Panchayat from whom it is deemed expedient to require security;
- (xi) appointment, qualification, dismissal, discharge, removal and punishment of the servants of the Gaon Panchayats and their right of appeal;
- (xii) rules and regulations of gratuity for the servants of the Gaon Panchayats;
- (xiii) the establishment, maintenance and management of primary schools and the construction and repair of buildings thereof;

- (xiv) the establishment, administration and control of libraries, reading rooms, dispensaries entrusted to a Joint Committee, the construction and repairs of buildings connected therewith and the supply of medicines and medical assistance to the poor inhabitants of the local area of a Gaon Sabha;
- (xv) the discovery, removal and destruction of water hyacinth on any land, premises or water, the construction of fences and barriers for checking its movements and the cost incurred in carrying out such work;
- (xvi) action in regard to the sanitation, conservancy, drainage, buildings, public streets and water supply and the prohibition of public nuisance ;
- (xvii) the framing of budgets and earmarking fund for specific purposes;
- (xviii) the returns to be submitted by the Gaon Panchayats and the Nyaya Panchayats, the form in which they are to be submitted, the authorities to whom and the time when they shall be submitted;
- (xix) the levy of taxes and licence fees, the authority by which and the manner in which the taxes may be assessed and the authority to whom an appeal from an assessment order may be made;
- (xx) the method and time of payment of taxes and other dues, the procedure of recovery and the authority whose assistance may be taken by Gaon Panchayats in the recovery of taxes and dues;
- (xxi) the method of account keeping by Gaon Panchayats;
- (xxii) the maintenance of public buildings and *nazul* land, as defined in rule 1 (a) of the rules relating to *nazul* properties;
- (xxiii) the formalities to be observed when transferring any property and the manner in which a deed of contract may be executed by a Gaon Panchayat;
- (xxiv) powers of auditors, inspecting and superintending authorities to hold inquiries summoning and examining witnesses, compelling the production of documents and all other matters connected with audit inspection and superintendence;
- (xxv) the issue, service or execution of summons, notices and other processes of the Nyaya Panchayat and issue and service of notices by Gaon Panchayats ;
- (xxvi) the transfer by a Nyaya Panchayat of summons and other processes to another Nyaya Panchayat or any court for service or execution;
- (xxvii) the fees to be levied by Nyaya Panchayat for institution of suits and cases, for issue of processes, for obtaining copies of documents and other matters;
- (xxviii) the court-fees and other fees payable where a Nyaya Panchayat with the consent of parties entertains a suit which is otherwise beyond its jurisdiction;

- (xxix) the procedure for execution of decrees, orders and sentences passed by Nyaya Panchayats;
- (xxx) the allotment by Gaon Panchayats of funds for the performance by Nyaya Panchayat of their duties under this Act and the extent to which fees may be appropriated by Gaon Panchayats;
- (xxxi) the powers that may be exercised by any prescribed authority in the discharge of their obligations under this Act and the manner in which such powers may be exercised;
- (xxxii) the procedure to be observed in the making of bye-laws by the Prescribed Authority for Gaon Panchayats or by Gaon Panchayats;
- (xxxiii) the printing of the prescribed forms and registers;
- (xxxiv) the submission for approval of plans, designs, specifications and estimates;
- (xxxv) the duties, powers and functions of the Village Volunteer Force;
- (xxxvi) the submission of annual reports by Gaon Panchayats and their review;
- (xxxvii) persons, other than members of Gaon Panchayats, who may be present in any advisory capacity in meetings of Gaon Panchayats;
- (xxxviii) channel of correspondence between a Gaon Panchayat and other authorities;
- (xxxix) disposal of assets and liabilities of a Gaon Panchayat on its abolition;
- (xl) the action to be taken on the inclusion of the whole or part of the local area of any Gaon Panchayat in any municipality, notified area, town area or cantonment and the manner in which the assets and liabilities of the Gaon Panchayat may be disposed of in such circumstances;
- (xli) the conditions subject to which sums due to a Gaon Panchayat may be written off as irrecoverable and the conditions subject to which the whole or any part of a fee may be remitted and generally for the guidance of the Gaon Panchayats, Nyaya Panchayats, Joint Committees, other Committees, servants of the State Government and other authorities in any matter connected with the carrying out of the provisions of this Act;
- (xlii) the regulation of the election of the members of the Gaon Panchayat in order to secure adequate representation of the Scheduled Castes and Scheduled Tribes.

115. The Prescribed Authority may, and when required by the Government shall, make bye-laws for a Gaon Panchayat within its jurisdiction consistent with the Act and the rules made thereunder for the purpose of promoting laws.

Powers of
Prescribed
Authority to
frame bye-
laws.

or maintaining the health, safety and convenience of persons residing within the jurisdiction of a Gaon Panchayat and for the furtherance of the administration of Gaon Panchayats under this Act.

Power of
Gaon Panch-
ayats to
frame
bye-laws.

116. (1) Subject to the provisions of this Act and the rules made thereunder and the bye-laws, if any, made by the Prescribed Authority, a Gaon Panchayat may frame bye-laws—

- (a) to prohibit the removal or use of water for drinking purposes from any source which is likely to cause danger to health and to prohibit the doing of anything likely to contaminate any source of drinking water;
- (b) to prohibit or regulate the discharge of water from any drain or premises on a public street or into a river, pond, tank, well or any other place;
- (c) to prevent damage to public streets under Gaon Panchayats;
- (d) to regulate sanitation, conservancy and drainage in the area of the Gaon Panchayats;
- (e) to prohibit or regulate the use of public places by shopkeepers or other individuals or collection of market tolls on public streets;
- (f) to regulate the manner in which tanks, ponds and cesspools, pasture land, playgrounds, manure pits, land for disposal of dead bodies and bathing places shall be maintained and used.

(2) The draft of bye-laws framed by Gaon Panchayats shall be published in the prescribed manner. Any objections received thereto shall be considered at a meeting of the Gaon Panchayat and thereafter by the Prescribed Authority. The bye-laws as sanctioned by the Prescribed Authority shall come into force after they have been published in the prescribed manner.

CHAPTER XI

MISCELLANEOUS AND APPEALS

Members
and servants
of the Pan-
chayat to be
public ser-
vants.

117. Every member or servant of a Nyaya Panchayat, a Gaon Panchayat, a Joint Committee or any other Committee constituted under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (Act XLV of 1860).

Gratuity for
servants.

118. The Gaon Panchayat may, in accordance with the rules made under this Act, grant a gratuity to any servant subject to the previous sanction of the Prescribed Authority.

Services to
be honorary.

119. (1) No member shall receive any remuneration or allowances for his services on the Gaon Panchayat.

(2) No Panch of a Nyaya Panchayat shall receive any remuneration for his service on the Nyaya Panchayat, but may receive such allowances as may be prescribed.

120. No Member of a Gaon Panchayat or a Panch of a Nyaya Panchayat or other officer having any duty to perform in connection with any sale under this Act shall directly or indirectly bid for or acquire any interest in any property sold at such sale. Members and Panches not to bid at sale.

121. No notice shall be invalid on account of any defect or omission in its form. Notice not to be invalid.

122. (1) Subject to any rule made in this behalf a Gaon Panchayat may, either before or after the institution of any case, compound an offence against this Act or any rule or bye-law made thereunder, on payment of such sum in cash to the Gaon Panchayat as may be prescribed. Power to compound offences.

(2) When an offence has been compounded, the offender, if in custody, shall be discharged and no further proceedings shall be taken against him in respect of the offence so compounded. All sums paid by way of composition under this section shall be credited to the Gaon Sabha Fund.

123. The President or Vice-President of the Gaon Panchayat and, if authorised in this behalf by the Gaon Panchayat, any other member, officer or servant of the Gaon Panchayat may enter into or upon any building or land, with or without assistants or workmen, in order to make an inspection or survey or to execute a work which a Gaon Panchayat is authorised by this Act or by rules or bye-laws made thereunder, to make or execute, or which it is necessary for a Gaon Panchayat for any of the purposes or in pursuance of any of the provisions of this Act or of rules or bye-laws, to make or execute : Entry and inspection.

Provided that—

- (a) except when it is in this Act or rules or bye-laws otherwise expressly provided no such entry shall be made between sunset and sunrise,
- (b) except when it is in this Act or in rules or bye-laws otherwise expressly provided no building which is used as a human dwelling shall be so entered except with the consent of the occupier thereof or without giving the said occupier not less than four hours' previous written notice of the intention to make such entry, and
- (c) sufficient notice shall in every instance be given even when any premises can otherwise be entered without notice to enable the inmates of an apartment appropriated for females to remove to some part of the premises where their privacy shall not be disturbed, and
- (d) due regard shall always be had to the social and religious usages of the occupant of the premises entered.

Suits against
Gaon Panchayats or its
officers.

124. (1) No suit or other legal proceeding shall be instituted against a Gaon Sabha or a Gaon Panchayat or against a member, officer or servant of the Gaon Panchayat or against any person acting under its or his direction for anything done or purporting to have been done in his official capacity under this Act, until the expiration of two months next after notice in writing has been, in the case of a Gaon Panchayat, delivered in or left at the office of the Panchayat, and in the case of a member, officer or servant or any person acting under his direction or the direction of the Gaon Panchayat delivered to him or left at his office or place of abode, explicitly stating the cause of action, the nature of the reliefs sought, the amount of compensation, if any, claimed, and the name and place of abode of the intending plaintiff and the plaint shall contain a statement that such notice has been so delivered or left.

(2) No action such as is described in sub-section (1) shall be commenced otherwise than within six months next after the accrual of the cause of action.

Protection to
Gaon Panchayat and
Nyaya Panchayat.

125. (2) The provisions of the Judicial Officers' Protection Act, 1850 (XVIII of 1850) shall apply to the members of Nyaya Panchayat.

(2) No suit or prosecution shall be entertained in any court against a Gaon Panchayat or any member or officer thereof or any person acting under its or his direction in respect of anything in good faith done or intended to be done under this Act or any rule or bye-laws made thereunder.

Power and
duties of police in respect
of offences
and assistance
to Panchayats.

126. Every Police Officer shall give immediate information to the Gaon Panchayat of an offence coming to his knowledge which has been committed against this Act or any rule or bye-laws made thereunder and shall assist all members and servants of the Gaon Panchayat and Nyaya Panchayat in the exercise of their lawful authority.

Disputes
with Gaon
Panchayat.

127. If any dispute arises between two or more Gaon Panchayats or between a Gaon Panchayat and a Town Area or a Municipal Board it shall be referred to the Prescribed Authority whose decision shall be final and shall not be questioned in any court of law.

Staff.

128. (1) A Gaon Panchayat or a Nyaya Panchayat may propose to the Prescribed Authority the employment of staff on suitable salary and allowances and subject to the approval of the Prescribed Authority appoint it. The conditions laid down by the Prescribed Authority will be binding.

(2) Notwithstanding anything in sub-section (1) a Gaon Panchayat may, in case of emergency, appoint a servant without the sanction of the Prescribed Authority for a period not exceeding 3 months.

(3) The power of appointment, discharge or dismissal of a servant of a Gaon Panchayat or Nyaya Panchayat shall be exercised by the Panchayat or Nyaya Panchayat, as the case may be. But the power of punishment, disciplinary action or promotion may be delegated to such officer of the Panchayat or the Nyaya Panchayat as may be prescribed, provided that an appeal from the order of such officer shall lie to the Gaon Panchayat or Nyaya Panchayat in the manner prescribed.

129. (1) Subject to such directions as the State Government may give, there shall be appointed by such authority as may be prescribed a Secretary for every Gaon Panchayat or a group of Gaon Panchayats or a Nyaya Panchayat. The Secretary appointed for a Gaon Panchayat or a group of Gaon Panchayats shall be *ex-officio* Secretary of the Gaon Sabha or Gaon Sabhas concerned. Secretary of Gaon Panchayat and Nyaya Panchayat.

(2) The Secretary shall, in the matter of leave, promotion, transfer, dismissal, removal and other disciplinary action, be under the administrative control of the Prescribed Authority which shall exercise its powers and functions in the manner prescribed :

Provided that an order of the Prescribed Authority removing or dismissing a Secretary shall be appealable within a period and in the manner to be prescribed, to the District Magistrate or if any other authority is prescribed in this behalf to such other authority :

Provided that in the case of a Secretary holding his substantive job in any other department all cases of the nature mentioned in sub-section (2) shall be referred by the Prescribed Authority to the head of the department concerned.

130. With the sanction of the Prescribed Authority and subject to such conditions as may be prescribed, a Gaon Sabha may borrow money from the State Government or any other source to carry out any of the purposes of this Act. Power to borrow.

131. (1) The expenses of the Nyaya Panchayat shall be charged to the Gaon Fund of each unit in a circle in equal proportion. Expenses of Nyaya Panchayat.

(2) All sums realized by way of court fees in any case, suit or proceeding or by way of funds of fine in cases tried and disposed of by a Nyaya Panchayat shall be handed over by the State Government to the Gaon Sabha situated within the jurisdiction of the Nyaya Panchayat in equal proportion.

132. The United Provinces Panchayat Raj Act, 1947 (XXVI of 1947), as extended to Bhopal under Notification dated the 10th September, 1951, is hereby repealed. Repeal.

SCHEDULE I

SECTION 59

Act

Section (s)

(a) Under the Indian Penal Code (XLV of 1850)—

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Not obeying a legal order to attend at a certain place in person or by agent or departing therefrom without authority	174
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Omitting to take order with an animal in his possession so as to guard against danger to human life or of grievous hurt from such animal	289
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Mischief by killing, poisoning, maiming or rendering useless any elephant, camel, horse, etc., whatever may be its value or any other animal of the value of Rs. 50 or upwards	429
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(b) Under the Cattle Trespass Act, 1871 (I of 1871)—Offences under sections 20 to 24 both inclusive,

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- (c) Under the Bhopal State Public Gambling Act, 1914 (X of 1914)—Offences under sections 3, 4 and 7.
- (d) Under the U.P. Removal of Social Disabilities Act, 1947 (XIV of 1947) as extended to the State of Bhopal *vide* Government of India, Notification No. 125-7, dated 11-6-1951.

Any Offence.

- (e) Under the Indian Vaccination Act, 1880 (XIII of 1880).

Any Offence.

- (f) Under the Prevention of Cruelty to Animals Act, 1890 (XI of 1890).

Any Offence.

- (g) Any offence under this Act or any rule or bye-laws made thereunder.

- (h) Any other offence under any other enactment declared by the State Government to be cognizable by the Nyaya Panchayat.

SCHEDULE II

Description of suits	Period of limitation	Time from which period begins to run
1	2	3
1. For money due on a contract	1 year	When the money became due to the plaintiff.
2. For the recovery of movable property or the value thereof.	Do.	When the plaintiff became entitled to the delivery of the movable property.
3. For compensation for wrongfully taking or injuring a movable property.	Do.	When the movable property was wrongfully taken or when injury was done to it.
4 For damages caused by cattle trespass.	6 months	When the damage was caused by the cattle trespass.

THE COORG VILLAGE PANCHAYAT ACT, 1926

Coorg Act No. I of 1927

An Act to make provision for village panchayats in Coorg

Preamble. WHEREAS it is expedient to make proper provision for the administration of village affairs by the villagers themselves and thereby develop the system of self-government;

AND WHEREAS the previous sanction of the Governor General has been obtained under sub-section (3) of section 80-A of the Government of India Act, to the passing of this Act;

It is hereby enacted as follows :—

CHAPTER I

PRELIMINARY

Title. 1. This Act may be called the Coorg Village Panchayat Act, 1926, and shall come into force at once.

Local extent. 2. It extends to the whole of the ¹[State] of Coorg except the municipalities and notified areas to which the Coorg Municipal Regulation, 1907, applies.

II of 1907.

Definitions. 3. In this Act, unless there is something repugnant in the subject or context—

- (1) 'building' includes a house, shop, warehouse, workshop, hut and shed;
- (2) 'forest' includes unreserved land at the disposal of Government and forest reserved or protected under the Indian Forest Act, 1878;
- (3) 'panchayat' means the body of persons constituted under this Act for carrying out all or any of the purposes of this Act;
- (4) 'panchayatdar' means a member of a panchayat;
- (5) 'prescribed' means prescribed by rules made under this Act;
- (6) 'revenue village' means any local area which is recognised as a village in the revenue accounts; and
- (7) 'village' means any area declared by the Chief Commissioner to be a village for the purposes of this act.

VII of 1878.

CHAPTER II

CONSTITUTION OF PANCHAYAT

Creation and abolition of panchayats. 4. (1) The Chief Commissioner may, (a) by notification in the manner prescribed, direct the constitution for any village of a panchayat or panchayats for carrying out all or any of the purposes of this Act, and (b) at any time in like manner modify or cancel such notification.

¹ Sub. by the Adaptation of Laws Order, 1950.

(2) The provisions of this Act shall come into force in, or cease to apply to, any village or part thereof, as the case may be, on such date as may be specified in the notification published under sub-section (1).

5. (1) A panchayat shall consist of such number of members as may be fixed by the Chief Commissioner, such number to be not more than fifteen and not less than seven. Numerical strength and constitution of panchayats.

(2) Where a panchayat is constituted for more than one revenue village, the Chief Commissioner shall determine the number of members to be allotted to each revenue village.

(3) The members shall be elected in the prescribed manner.

6. (1) Every person of sound mind who is a resident of the village and is not less than twenty-one years of age shall be entitled to vote at an election of panchayatdars. Qualifications of voters.

(2) Any dispute as to the age or residence of a person for the purpose of sub-section (1) shall be decided in the manner prescribed.

7. Every person of sound mind who is a resident of the village and is not less than twenty-five years of age shall, unless he falls within any of the disqualifications provided for in section 11, sub-sections (a), (c) and (d), be qualified to be elected as a panchayatdar : Qualifications of candidates.

Provided that no salaried officer of Government, village patels excepted, shall be qualified for election as a member of a panchayat.

8. Every panchayat shall elect one of its members to be its president. President of panchayat to be elected.

9. The president may, during his temporary absence or incapacity, delegate by an order in writing any of his powers or duties to a panchayatdar : Temporary delegation of powers of president to panchayatdar.

Provided that he shall not delegate any powers or duties which the panchayat expressly forbids him to delegate.

10. (1) The term of office of a panchayatdar shall be two years from the date of his election. Term of office of panchayatdar and president.

(2) A president shall be deemed to have vacated his office on the expiry of his term as panchayatdar or on his otherwise ceasing to be a panchayatdar.

11. The Chief Commissioner may remove any panchayatdar or president from his office:— Power to remove panchayatdar or president.

(a) who is sentenced by a criminal court to transportation or imprisonment for a period of more than one month, such sentence not having been reversed or the offence pardoned; or

(b) who refuses to act or becomes incapable of acting; or

(c) who applies to be adjudicated or is adjudicated, a bankrupt or insolvent; or

- (d) who has been ordered to find security for good behaviour under the Code of Criminal Procedure, 1898 : or
- (e) who has been guilty of misconduct in the discharge of his duties.

V of 1898.

Resignation of office and filling of vacancies. **12.** (1) A panchayatdar or president may resign his office by giving notice to the panchayat.

(2) When there is a vacancy in the office of panchayatdar or president, a new panchayatdar or president shall be elected in accordance with the foregoing provisions.

Act of panchayat not to be invalidated by vacancy or irregularity. **13.** No act of a panchayat shall be deemed invalid by reason only that the number of panchayatdars at the time of the performance of such act was less than the sanctioned strength or of any irregularity in the election of any panchayatdar or president.

Incorporation of panchayats. **14.** Every panchayat shall be a body corporate by such name as the Chief Commissioner may determine and shall have perpetual succession and a common seal, and shall by the said name sue and be sued. Subject to any rules made by the Chief Commissioner in this behalf, it shall also have power to acquire, hold or transfer property, movable and immovable, to enter into contracts and to do all other things necessary for the purposes of this Act.

CHAPTER III

FUNCTIONS AND POWER

Functions of Panchayats. **15.** Subject to such rules as the Chief Commissioner may make, a panchayat may exercise the powers and perform the duties specified below :—

- (i) construction and maintenance of village roads, culverts, bridges and buildings ;
- (ii) lighting of streets and public places ;
- (iii) construction of drains and disposal of drainage water and sullage ;
- (iv) cleansing of streets, removal of rubbish heaps, jungle growth and lantana, filling in of disused wells, insanitary ponds, pools, ditches, pits or hollows and other improvements of the sanitary condition of the village ;
- (v) provision of public latrines and arrangements to cleanse latrines whether public or private ;
- (vi) opening and maintenance of public burning and burial grounds ;
- (vii) sinking and repairing of wells, excavation, repair and maintenance of ponds or tanks for supply of water for drinking, washing and bathing purposes, and construction of bathing ghats :

provided that all such wells, ponds, tanks and bathing ghats shall be open for the use of all residents of the village ;

- (viii) control of cattle-stands, threshing floors, topes and other communal lands;
- (ix) control of chavadis, chatrams, rest-houses, and other property belonging to the villagers in common;
- (x) extension of village sites;
- (xi) promotion of vaccination ;
- (xii) registration of births and deaths;
- (xiii) opening and maintenance of village libraries;
- (xiv) control of ponds;
- (xv) control of fisheries in village tanks; and
- (xvi) other measures of public utility calculated to promote the safety, health, comfort or convenience of the villagers.

16. The district board may at any time, with the consent of the panchayat and subject to such conditions as may be agreed upon, authorize such panchayat to exercise any of the following functions which the district board may itself exercise under the Coorg District Fund Regulation, 1900; and it shall thereupon be lawful for such panchayat to exercise such function :—

Functions which a local board may authorize panchayat to exercise.

- (i) construction and control of markets, slaughter-houses and cart-stands ;
- (ii) sanitary arrangements for public festivals ;
- (iii) control of fairs ;
- (iv) planting and preservation of trees on roads;
- (v) establishment and maintenance of elementary schools and other matters connected with elementary education ;
- (vi) provision of medical relief.

17. The Chief Commissioner may, subject to such conditions and the payment of such contribution, if any, by the panchayat as he may prescribe, transfer to any panchayat the management, protection and maintenance of forests.

Transfer of forests to panchayat.

18. The Chief Commissioner may, subject to such conditions as he may prescribe, transfer to any panchayat the protection and maintenance of any village irrigation work, the management of turns of irrigation, or the regulation of the distribution of water from any irrigation work to the fields depending on it.

Transfer of functions in respect of irrigation works.

19. Subject to such rules as may be made by the Chief Commissioner, the district board or the ¹[Assistant Commissioner] or any private person or body of persons may, with the consent of a panchayat, make over to such panchayat, subject to such conditions as may be agreed upon, the management of any institution or the execution or maintenance of any work or the performance of any duty within the area over which the panchayat has control.

Institutions or works may be transferred to panchayat.

¹ Sub. by s. 2 of Act VI of 1940.

The Chief Commissioner's power to add to functions of panchayat. **20.** The Chief Commissioner may, subject to such conditions as he may prescribe, authorize any panchayat, by a general or special order, to exercise any functions or perform any duties other than those specified in sections 15, 16, 17, 18 and 19.

Appointment of Committees. **21.** (1) A panchayat may appoint from among its members committees with delegated power to dispose of matters relating to any particular branch of the administration which are reserved by this Act or the rules made under it for the decision of the panchayat; or may appoint individual panchayatdars or committees of panchayatdars to inquire into and report on any such matters.

(2) It shall be lawful for the panchayat from time to time by a resolution supported by not less than one-half of its sanctioned strength to appoint as members of any committee, for such term as the panchayat may specify, any persons who are not panchayatdars but who may in the opinion of such panchayat possess special qualifications for serving on such committee. All the provisions of this Act relating to the duties, powers and liabilities of panchayatdars shall be applicable, so far as may be, to such persons.

Joint Committees. **22.** (1) Panchayat or panchayats and other local authorities may join—

- (a) in appointing out of their respective bodies a joint committee for any purpose in which they are jointly interested;
- (b) in delegating to such committee power to frame terms binding on each such authority as to the construction and future maintenance of any joint work and any power which might be exercised by any of such authorities; and
- (c) in framing and modifying rules fixing the constitution of such committee and the term of office of its members, and regulating the proceedings of such committee relating to the purpose for which the committee is appointed.

(2) If any difference of opinion arises between local authorities acting under this section it shall be referred to the Chief Commissioner, whose decision thereon shall be final.

Powers of panchayat for carrying out its functions. **23.** (1) Subject to such rules as the Chief Commissioner may make in this behalf and subject to the provisions of sections 15, 16, 17, 18, 19 and 20, a panchayat shall have power to do all acts necessary for and incidental to the carrying out of the functions entrusted to it and, in particular,

- (a) in respect of the matters specified in section 15, clauses (i) to (iv), a panchayat shall have control of all roads, culverts, bridges, drains, drainage works and waterways, other than canal or irrigation channels within its jurisdiction, not being private property and not being specially excepted by any

order of the Chief Commissioner or the district board, and may do all things necessary for the maintenance and repair thereof, and may—

- (i) lay out and make new roads;
- (ii) construct new bridges or culverts;
- (iii) widen, open, enlarge or otherwise improve any road or bridge;
- (iv) construct drains and drainage works;
- (v) deepen or otherwise improve waterways; and
- (vi) provide for the lighting of any road or public place within its area ;

(b) to improve the sanitary condition of the village or a part of it, a panchayat shall have power—

- (i) to require by notice the owner or occupier of any building to construct private drains therefore or alter or remove the private drains thereof within a reasonable period;
- (ii) to require, by notice giving a reasonable period the owner or occupier of any land or building which contains or is attached to any well, pool ditch, pit, pond, tank or any place containing or used for the collection of any drainage, filth or stagnant water, which is injurious to health or offensive to the neighbourhood or is otherwise a source of nuisance, to cause the same to be filled up, cleansed, or deepened or to cause the water to be removed therefrom or drained off, or to take such other action therewith as may be deemed by the panchayat necessary to remove the nuisance;
- (iii) to require, by notice giving a reasonable period, the owner or occupier of any land overgrown with vegetation, undergrowth, lantana or scrub jungle which is in any manner, injurious to health or dangerous to the public or offensive to the neighbourhood, to cause it to be cleared of the vegetation, undergrowth, lantana or scrub jungle; and
- (iv) to require by notice the owner or occupier of any land or building which needs to be cleansed to cause the same to be cleansed or lime-washed within a reasonable period ;

(c) in respect of the matters specified in section 15, clause (vii), a panchayat may provide the village with a supply of water, proper and sufficient for public and private purposes, and for such purposes shall have power—

- (i) to construct, repair and maintain tanks or wells and clear out streams or water-courses;

- (ii) to purchase or acquire by lease or gift any tank, well, stream or water-course and, with the consent of the owner, cleanse or repair it or provide facilities for obtaining water therefrom;
- (iii) to prohibit, during epidemics, the use of any water source for drinking or culinary purposes, or for the washing of clothes;
- (iv) to notify the setting apart of any public water source for drinking or culinary purposes and likewise to prohibit all bathing, washing of clothes and animals or other acts likely to pollute the source so set apart:

Provided that nothing shall be done under this clause which may affect a canal or channel used for irrigation without the prior consent of the authority controlling such canal or channel.

(2) Any person who disobeys an order issued under sub-clause (iii) or (iv) of clause (c) of sub-section (1) shall, on conviction by a magistrate, be punishable with fine which may extend to twenty-five rupees.

(3) If any work required by notice under sub-clauses (i) to (iv) of clause (b) of sub-section (1) is not executed within the period specified in the notice, the panchayat may itself cause such work to be carried out and the cost of such work or part thereof may be recovered from the owner or occupier referred to in the said sub-clauses, in the manner prescribed in section 31(1).

Power of entry.

24. The president or any officer or servant of a panchayat may, after giving due notice, enter into or upon any building or land, with or without assistants or workmen, in order to make any inspection or execute any work for the purposes of or in pursuance of, section 23:

Provided that—

- (a) no such entry shall be made between sunset and sunrise ;
- (b) unless the entry be with the consent of its occupier, no dwelling house shall be so entered without giving reasonable previous notice signed by the president or by a person duly authorised by him in this behalf of the intention to make such entry; and
- (c) due regard shall be had in making such entry to the social and religious usages of the occupants of the premises entered.

Panchayat to appoint its staff and frame its bye-laws.

25. Subject to such rules as the Chief Commissioner may make in this behalf, a panchayat may—

- (a) appoint such staff of officers and servants as it may consider necessary and fix the salaries or other remuneration to be paid to such staff, and
- (b) subject to the approval of the Chief Commissioner, frame bye-laws for the conduct of its business and generally for carrying out the purposes of this Act.

CHAPTER IV PANCHAYAT FUND

26. (1) Subject to such rules as the Chief Commissioner may prescribe, the district board may make to a panchayat such contributions from the district fund, as it may think fit, to enable the panchayat to carry out the duties specified in section 15, and may attach to contributions any conditions that may appear to the district board to be desirable:

Provided that when the district board has authorised a panchayat to exercise any of the functions specified in section 16, it shall make contributions adequate for the performance of such duties, and may from time to time modify such grants.

(2) Subject to the approval of the Chief Commissioner a panchayat may levy all or any of the following taxes and fees:—

- (a) a yearly tax on the capital value of buildings situated in the village;
- (b) a yearly tax on callings, trades and professions exercised in the village such as those specified in Schedule A :
- (c) fees for the occupation of cattle-stands, threshing floors, village-sites and other similar communal lands or public places or parts thereof;
- (d) fees for the use of cart-stands, markets, market sites and slaughter-houses under the control of the panchayat;
- (e) fees for the occupation of choultries, chatrams, travellers' rest-houses and other similar public buildings under the control of the panchayat, and for the cleansing of private latrines;
- (f) fees for the issue of permits for grazing, or the removal of fuel or other forest produce.

(3) In addition to or in lieu of any of the foregoing taxes and fees, a panchayat may submit proposals for any other tax or fee which it may find to be convenient and suitable to the village community for the approval of the Chief Commissioner who may accept the same and sanction its levy in the village :

Provided that the Chief Commissioner shall not sanction the levy of a tax not included in Schedule II to the Scheduled Taxes Rules save with the previous sanction of the ¹[President].

(4) All taxes and fees leviable under this section shall be levied in accordance with such rules as may be prescribed.

27. No tax or fee shall be levied under section 26 unless the levy thereof is sanctioned by a resolution of the panchayat supported by not less than two-thirds of its sanctioned strength at a meeting specially convened for the purpose.

28. When the panchayat shall have sanctioned, with the approval of the Chief Commissioner, the levy of any tax or fee, such panchayat shall at once notify, in the prescribed

Tax or fee not to be levied without resolution of panchayat. Notification of levy of taxes and fees.

¹ Sub. by the Adaptation of Laws Order, 1950.

manner in the villages in which the tax or fee is to be levied, the rate at which and the date from which such tax or fee is to be levied.

Assessment of taxes and fees.

29. In making assessments to any of the taxes or fees referred to in section 26, the panchayat shall assess the same at the rates or amounts and from the dates specified in the notification under section 28.

Application for revision of assessment.

30. Any person dissatisfied with the assessment under section 29 may, within such time as may be prescribed, apply to the Subedar, either orally or in writing, for a revision of the assessment, and the Subedar may amend or confirm the same.

Collection of taxes and fees.

31. (1) The amount of taxes and fees shall be paid in such manner as may be prescribed, and, in case of default of such payment, shall be recovered by the Village Patel by distraint and sale, in the manner prescribed, of the movable property of the defaulter, together with a sum equal to a fifth of the amount of such arrear, by way of penalty.

(2) The panchayat may let out the collection of the fees referred to in clauses (c), (d) and (f) of sub-section (2) of section 26 for any period not exceeding two years at a time on such conditions as it thinks fit.

Power to write off irrecoverable taxes, etc.

¹**31-A.** Subject to such restrictions and control as may be prescribed by the Registrar of the Panchayat, a Panchayat may write off any tax, fee or other amount whatsoever due to it, whether under a contract or otherwise or any sum payable in connection therewith, if, in its opinion, such tax, fee, amount or sum is irrecoverable.]

Panchayat fund and its application.

32. (1) All sums realised under section 31, all sums realised as penalties, fines, fees or costs under this Act, and all other receipts of the panchayat including any donation from a private person or body of persons, and any contribution from the district board or the Government shall be paid into a fund to be called the 'Panchayat Fund' the accounts of which shall be kept in the manner prescribed.

(2) The panchayat fund shall be applied to the payment of expenditure incurred by the panchayat in carrying out the purposes of this Act:

Provided that the salaries of the establishment of the panchayat shall be the first charge upon the panchayat fund:

Provided also that all funds made over to the panchayat for a specific purpose shall be applied solely to that purpose.

CHAPTER V

CONTROL

Suspension or cancellation of panchayat proceedings.

33. The Chief Commissioner may, by order in writing, suspend the execution of any resolution of a panchayat or of any order or notice issued by a panchayat or its president, or cancel such resolution, order or notice, and may prohibit the doing of any act which is about to be done or is being

¹ Ins. by s. 2 of Act III of 1938.

done in pursuance or under colour of this Act, if in his opinion, such resolution, order, notice or act is manifestly perverse or *ultra vires* of the panchayat, or the execution of such resolution, order, notice or act is likely to cause obstruction, injury or annoyance to any person lawfully employed or danger to human life, health or safety, or is likely to lead to a riot or an affray.

34. A panchayat shall at all times permit any officer or other person whom the Chief Commissioner may empower in this behalf to have access to all its books, proceedings and records and to enter on and inspect any immovable property occupied by, or any work in progress under the orders of, or any institution controlled by, a panchayat.

Inspection of panchayat records, works or property.

35. If the Chief Commissioner is of opinion that a panchayat persistently makes default in the performance of the duties imposed upon it by or under this or any other Act, or abuses its powers, he may, after giving the panchayat sufficient opportunity to show cause to the contrary, by an order in writing specifying his reasons for so doing, dissolve the panchayat.

Power of the Chief Commissioner to dissolve panchayat.

36. On the dissolution of a panchayat under section 35, all members of the panchayat shall, as from the date of publication of the order, vacate their offices as such members and the Chief Commissioner shall pass such orders as he deems equitable and just in regard to the funds and other property of the panchayat and such orders shall be final.

Consequences of dissolution.

37. (1) The Chief Commissioner may appoint a person to be Registrar of panchayats and may assign to him from time to time such salary and establishment as he thinks fit.

Appointment of Registrar, his duties and delegation of the Chief Commissioner's powers to him.

(2) The cost of such officer and his establishment shall be paid out of the revenues of the Local Government.

(3) The Registrar so appointed shall attend to the constitution, and superintend the administration, of panchayats within his jurisdiction and shall, when so authorized by the Chief Commissioner by notification, exercise all or any of the powers vested in him by this Act, except the power to make rules under section 44.

38. The Chief Commissioner may, either by name or by virtue of office, authorize by notification the [Assistant Commissioner], chief forest officer, district board president, or any other person whether a salaried officer of the Government or not, to exercise in any local area, in regard to any panchayat or any class of panchayats or all panchayats in that area, all or any of the powers of the Chief Commissioner which a Registrar may be authorized to exercise under sub-section (3) of section 37.

Delegation of the powers of the Chief Commissioner to others.

39. The Chief Commissioner may by notification cancel or modify any authority that he may have conferred on any person under sub-section (3) of section 37 or under section 38.

Withdrawal or modification of power once delegated.

¹ Sub. by s. 2 of Act VI of 1940.

¹[CHAPTER V-A
NUMBERING OF BUILDINGS

39-A. (1) Number of Buildings.— This section shall be applicable to all the village panchayats constituted under the Act and also to such other areas not being municipalities and notified areas, as may be notified by the Chief Commissioner from time to time in the Coorg Gazette.

(2) In any area to which this section applies, such authority as may be prescribed in this behalf, may cause a number to be affixed to the side or outer door of any buildings or to some place at the entrance of the premises.

(3) No person shall without lawful authority, destroy, pull down or deface any such number or any number assigned to any building in any such area in connection with preparation of electoral rolls on the basis of adult franchise during the year 1948, 1949 or 1950.

(4) When a number has been affixed under sub-section (2) the owner of the building shall be bound to maintain such number and to replace it if removed or defaced; and if he fails to do so, the authority referred to in sub-section (2) may by notice require him to replace it.

(5) If any person contravenes the provisions of sub-section (3) or sub-section (4), he may, on conviction, be punishable with fine which may extend to Rs. 5 or Rs. 20 respectively, as the case may be.]

CHAPTER VI

SUITS, PROSECUTIONS, RULES, ETC.

40. Every member of a panchayat shall be liable for the loss, waste or misapplication of any money or other property owned by, or vested in, a panchayat, if such loss, waste or misapplication is a direct consequence of his neglect or misconduct; and a suit for compensation may be instituted against him in any court of competent jurisdiction by the panchayat with the previous sanction of the ²[Assistant Commissioner].

41. (a) No suit or other legal proceeding shall lie against any member, officer, servant or agent of a panchayat acting under its direction, in respect of anything done in good faith under this Act or any rule or bye-law made hereunder.

(b) No suit or other legal proceeding shall be brought against any panchayat, or any member, officer, servant or agent thereof, acting under its direction, for anything done under this Act, until the expiration of three months next after notice in writing has been left or delivered at the office

¹ Ins. by s. 2 of Act II of 1951.

² Sub. by s. 2 of Act VI of 1940.

of the panchayat, and also at the residence of the person against whom the suit is intended to be brought, if such person is a member, officer, servant or agent acting under the direction of the panchayat. The notice shall state the cause of action, the nature of the relief sought, the amount of compensation claimed and the name and place of abode of the person who intends to bring the suit; and unless such notice be proved, the court shall find for the defendant.

(c) Every such action shall be commenced within six months after the accrual of the cause of action and not afterwards.

42. Whoever obstructs or molests the panchayat or any member thereof or any person employed by it or him, or any person with whom it or he has contracted in the lawful performance of its or his duty, under the provisions of this Act, or prevents or attempts to prevent any person from doing anything which he is empowered or required to do by virtue of this Act, or removes any mark set up for the purpose of indicating any level or direction incidental to the carrying out of any work authorized by this Act, or removes, destroys, defaces or otherwise obliterates any notice put up or exhibited by the panchayat or under its authority, shall be liable on conviction by a magistrate to a fine not exceeding Rs. 50.

Punishment for obstructing panchayat or its agents.

43. (1) Nothing herein contained shall preclude the institution by the panchayat of a suit for any amount due under this Act.

Suit for recovery of dues.

(2) No assessment or demand made, and no charge imposed, under the authority of this Act shall be impeached or affected by reason of any clerical error or of any mistake in respect of the name, residence or occupation of any person, the description of any property or thing, or the amount assessed, demanded or charged; provided that the provisions of this Act have been in substance and effect complied with. And no proceedings under this Act shall merely for defect in form be quashed or set aside in any court of justice.

Assessments, etc., not to be impeached.

(3) No suit shall be brought in any court to recover any sum of money collected under the authority of this Act or to recover damages on account of any assessment or collection of money made under the said authority; provided that the provisions of this Act have been in substance and effect complied with.

44. (1) The Chief Commissioner may, after previous publication, make rules to carry out all or any of the purposes of this Act not inconsistent therewith.

Power of the Chief Commissioner to make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, the Chief Commissioner shall have power to make rules—

- (a) with reference to all matters expressly required or allowed by this Act to be prescribed ;
- (b) for giving intimation of vacancies in the offices of president and panchayatdars, for fixing the time within which election shall be held for filling such

- vacancies, and generally for regulating all elections under this Act and determining the authority who shall decide disputes relating to such elections ;
- (c) regulating the powers of panchayats to acquire, hold and transfer property and to enter into contracts ;
 - (d) as to the powers that may be exercised by the president as the chief executive officer of a panchayat ;
 - (e) regarding the conduct of meetings of panchayats and quorum ;
 - (f) regarding the appointment of the officers and servants of the panchayat and their salaries ;
 - (g) as to the records, registers and accounts to be maintained by panchayats, the audit and publication of such accounts, and the arrangements to be made for the lodging and custody of the panchayat fund ;
 - (h) as to the return, statements and reports to be submitted by panchayats ;
 - (i) as to the preparation and sanction of the estimates of receipts and expenditure of panchayats ;
 - (j) prescribing the manner in which notifications and orders under this Act shall be published ;
 - (k) prescribing instructions for the guidance of the controlling authorities mentioned in sections 37 and 38 of this Act in exercising the powers delegated to them ;
 - (l) prescribing the class of magistrates by whom offences under this Act shall be tried ;
 - (m) as to the settlement of differences or disputes between any two panchayats or between a panchayat and any other local authority in regard to any matters arising for decision under this Act.

Form of
notices.

45. All notices given or issued under the provisions of this Act shall be in writing and in Kanarese.

Publication
of bye-laws.

46. Every bye-law under this Act shall, unless a different method be prescribed under this Act or directed by the panchayat, be written in, or translated into, Kanarese and deposited at the office of the panchayat, and a copy shall be posted up in a conspicuous position at such office and such other places as the panchayat may direct. And a public proclamation shall be made throughout the village by beat of drum or otherwise that such copy has been so posted up and that original is open to inspection at the office of the panchayat.

Notice of
prohibitions
or setting
apart
places.

47. Whenever the panchayat shall have set apart any place for any purpose authorized by this Act or shall have prohibited the doing of anything in any place, the president shall forthwith cause to be put up a notice in Kanarese at or near such place. Such notice shall specify the purpose for which such place has been set apart or the act prohibited in such place.

48. (1) When any notice or other document is required by this Act, or by any rule, bye-law or order made under it, to be served on, or sent to, any person, the service or sending thereof may be effected— Method of serving documents.

- (a) by giving or tendering the said document to such person; or
- (b) if such person is not found, by leaving such document at his last known place of abode or business, or by giving or tendering the same to some adult member or servant of his family; or
- (c) if such person does not reside in the village and his address elsewhere is known to the president, by sending the same to him by post registered; or
- (d) if none of the means aforesaid be available, by fixing the same in some conspicuous part of such place of abode or business.

(2) When the person is an owner or occupier of any building or land, it shall not be necessary to name the owner or occupier in the document, and in the case of joint owners and occupiers it shall be sufficient to serve it on, or send it to, one of such owners or occupiers.

(3) Whenever in any bill, notice or other document served or sent under this Act or the rules made thereunder a period is fixed within which any tax or other sum is to be paid or any work executed, or anything provided, such period shall, in the absence of any distinct provision to the contrary, be calculated from the date of such service or sending.

SCHEDULE A

CALLINGS, TRADES AND PROFESSIONS

[Section 26, sub-section (2), clause (b).]

Document writers and stamp vendors.

Law agents.

Priests or purohits.

Kazis.

Archakas.

Exhibitors of puppet shows and expounders of harikatha (tax per performance).

Dancers.

Musicians.

Owners of vehicles plying for hire (tax per vehicle).

Keepers of boarding houses or hotels or eating or refreshment houses and shops.

Weavers (tax per loom).

Carpet, cumbli or blanket manufacturers.

Hakims or Vaidyans.

Renters of today, arrack, ganja, opium and foreign liquor shops.

Dealers in cattle, goats or sheep (tax per head sold). •

Grain and cattle brokers.
Professional measures of grain and other produce.
Carpenters and smiths of all descriptions.
Other village artisans.
Manufacturers of jaggery, sugar or dyes.
Manufacturers of bricks or tiles and owner of lime-kilns (tax per kiln).
Oil-mill owners (tax per mill).
Fuel shop-keepers.
Petty Commission Agents.
Medical practitioners.
Retail shopkeepers.
Retail traders.
Boat-owners (tax per boat).
Wholesale traders or merchants.
Factory owners.
Rice mill or tannery owners.
Money lenders.
Contractors.
Owners of oil-mills worked by mechanical power.
Keepers of depots for bones, hides or skins.
Barbers.
Dhobies.
Tailors.
Astrologers.
Toddy tappers.
Shoe-makers.
Farriers.
Cycle hirers and repairers.
Garage keepers.
Malayas.
Bannas.

THE HIMACHAL PRADESH PANCHAYAT RAJ ACT, 1952

Himachal Pradesh Act VI of 1953

An Act to establish and develop Panchayat Raj in the Himachal Pradesh.

WHEREAS it is expedient to establish a co-ordinated Preamble.
system of Panchayat Raj in the State and to make provision
for better village administration and development;

It is hereby enacted as follows :

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Himachal Pradesh Short title,
Panchayat Raj Act, 1952. extent and
commence-
ment.

(2) It shall extend to the whole of the Himachal Pradesh
except the area which may hereafter be constituted a Muni-
cipality or a Notified area under sections 4 and 241 of the
Punjab Municipal Act of 1911 as applied to the Himachal
Pradesh or a Cantonment under the provisions of the Canton-
ments Act, 1924.

(3) It shall come into force, in whole or in part, in such
area or areas and on such date or dates as the State Govern-
ment may, by notification, direct.

2. In this Act unless there is anything repugnant in the Definitions.
subject or context.

(1) (a) 'adult' means a person, male or female, who has
completed his or her twenty-first year;

(b) 'building' means any shop, house, out-house, hut,
shed or stable, whether used for the purpose of human
habitation or otherwise and whether of stone, concrete,
bricks, masonry, wood, mud, thatch, metal, or any other
material whatever and includes a wall ;

(c) 'case' means a criminal proceeding in respect of an
offence triable by a Nyaya Panchayat ;

(d) 'circle' means the area within which a Nyaya Pan-
chayat exercises jurisdiction under section 47 ;

(e) 'Collector' or 'District Magistrate' or 'Sub-Divisional
Judge' with reference to a Gram Sabha, Gram Panchayat,
Nyaya Panchayat, Tehsil Panchayat or Zilla Panchayat,
means a Collector, District Magistrate or Magistrate 1st
Class or Sub-Judge of the District or the Sub-Division, as
the case may be, in which such Sabha or Panchayat is cons-
tituted ;

(f) 'common land' means the land which is not in the
exclusive use of any individual and has by usage, custom or
prescription been reserved for the common purposes of
village community or has been acquired for such purposes ;

(g) 'Director' means Director of Panchayat appointed under this Act ;

(h) 'Gram Panchayat' means the Executive Committee of the Gram Sabha established under sub-section (1) of section 12 ;

(i) 'Gram Sabha' means a Gram Sabha established under section 3:

(j) 'Nyaya Panchayat' means a Nyaya Panchayat established under section 47 and includes a bench thereof ;

(k) 'official gazette' or 'gazette' means the Gazette of India ;

(l) 'ordinarily residing' means residing within the jurisdiction of a Gram Sabha where the person has a fixed habitation within its jurisdiction although he occasionally goes out of its jurisdiction ;

(m) 'Panchayat forest' means a forest which has been so declared by the State Government by notification issued in this behalf ;

(n) 'population' means the population of a village or area as determined in the manner prescribed in this behalf ;

(o) 'prescribed' means prescribed by this Act or Rules made thereunder ;

(p) 'prescribed authority' means the authority notified as such by the State Government ;

(q) 'proceeding' means a proceeding specified under section 73 ;

(r) 'public place' means a space not being private property which is open to use or enjoyment of the public whether such space is vested in the Gram Sabha or not ;

(s) 'public street' means any road, street, bridge, lane, square, court, alley or passage which the public has a right to pass along, and includes on either side the drains or gutters and the land upto the defined boundary of any abutting property, notwithstanding any projection over such land of any verandah or other superstructure ;

(t) 'public servant' means a public servant as defined in section 21 of the Indian Penal Code, 1860 ;

(u) 'Schedule' means a Schedule appended to this Act ;

(uu) "State Government" means the Government of Himachal Pradesh ;

(v) 'Sub-Divisional Officer' with reference to a Gram Sabha, Gram Panchayat, Nyaya Panchayat, Tehsil Panchayat or Zilla Panchayat means an Assistant Collector of the First Grade of the Sub-Division in which such Sabaha or Panchayat is situated ;

(w) 'suit' means a civil or arevenue suit triable by a Nyaya Panchayat ;

(x) 'Tehsil Panchayat' means a Panchayat formed under section 99 ;

(y) 'tax' includes a cess, fee, rate, toll, import duty or other duty leviable under this Act ;

(z) 'village' means any local area recorded as village in the revenue records of the district in which it is situate or any other local area which the State Government may, by general or special order, declare to be a village ;

(aa) 'watercourse' means a kuhl or channel which is maintained at the cost of the irrigators and is used for irrigation or providing drinking water and the management whereof has been partly or wholly entrusted to the Panchayat ;

(ab) 'Zilla Panchayat' means a Panchayat formed under section 99 ;

(2) 'offence', 'non-bailable offence', 'cognizable offence', 'complaint', 'officer-in-charge of a police station', and 'police station' have the same meaning as in section 4 of the Code of Criminal Procedure, 1898 ;

(3) 'decree', 'decree-holder', 'judgement-debtor', 'legal representative', and 'movable property' have the same meaning as in section 2 of the Code of Civil Procedure, 1908 ;

(4) 'land owner', 'tenant', 'rent', 'land revenue' and 'rates' and 'cesses' have the same meaning as in the Punjab Land Revenue Act, 1887, as applied to the Himachal Pradesh.

CHAPTER II

ESTABLISHMENT & CONSTITUTION OF GRAM SABHAS AND THEIR JURISDICTION

3. (1) The State Government shall, by notification in the Gazette, establish a Gram Sabha for a village or a group of villages in those areas in which this Act has come into force by notification under sub-section (3) of section 1. Establishment and constitution of Gram Sabhas and their jurisdiction.

(2) The State Government shall declare the name and the territorial jurisdiction of the Gram Sabha in the notification mentioned in sub-section (1) and may at any time by notification in the Gazette, either of its own motion or of a Gram Sabha or the residents of any village, include any area in or exclude any area from a Gram Sabha.

(3) Where by a notification under sub-section (2) any area is included in the jurisdiction of a Gram Sabha such area shall thereby become subject to all notifications, rules, regulations, bye-laws and orders made under this or any other enactment in force in the area within the jurisdiction of the aforesaid Gram Sabha.

4. Every Gram Sabha, Tehsil Panchayat and Zilla Panchayat shall be a body corporate by the name notified in the Gazette under sections 3 and 99, as the case may be, having perpetual succession and a common seal and shall, subject to any restriction or condition imposed by or under Incorporation of Gram Sabha, Tehsil Panchayat and Zilla Panchayat.

this or any other Act, have powers to acquire by purchase, gift or otherwise, to hold, administer and transfer property both movable and immovable, and to enter into contracts and to do all that is necessary for the purposes of this Act and shall by the said name sue or be sued.

Membership
of Gram Sa-
bha.

5. A Gram Sabha shall consist of all adults ordinarily residing within the area for which the Sabha is established:

Provided that no adult may be a member of a Gram Sabha and continue as such, if he—

- (a) is of unsound mind; or
- (b) is suffering from leprosy; or
- (c) is an undischarged insolvent; or
- (d) is convicted of an election offence; or
- (e) has been convicted for an offence involving moral turpitude or ordered to give security for good behaviour under section 110 of the Code of Criminal Procedure, 1898 :

Provided further that the disqualifications under clause (c) or (d) or (e) of the first proviso may be removed by an order of the State Government or the prescribed authority.

Period of
Membership.

6. A member of a Gram Sabha shall continue to be its member until he abandons his residence in the village or until the area in which he resides is excluded from the jurisdiction of the Gram Sabha under section 8 :

Provided that a person described in section 5 who has ceased to be a member by reason of the disqualifications mentioned therein or abandonment of his residence in the village, shall on the removal of the disqualifications or the resumption of his ordinary residence in his village, as the case may be, and on an application made by him to the President of the Gram Sabha in this behalf, be, after such inquiry as may be prescribed, re-enrolled as a member thereof.

Disqualifica-
tion or defect
in appoint-
ment or nomi-
nation not to
vitate act or
proceedings
of the Gram
Sabha.

7. No defect or omission in the enrolment, or disqualification, of a member shall vitiate any act or proceedings of a Gram Sabha if not less than two-third of the members at the time the act is done or the proceeding is taken were duly qualified members thereof.

Effect of
change in
population
or inclusion
of the area of
Gram Sabha
in munic-
palities, etc.

8. If the whole of the area of the Gram Sabha is included in a municipality, cantonment, notified area, the Gram Sabha shall cease and its assets and liabilities shall be disposed of in the manner prescribed. If a part of such area is so included, its jurisdiction shall be reduced by that part.

Register of
Members.

9. On the establishment of a Gram Sabha the prescribed authority shall cause to be prepared a register in the prescribed form of all adults ordinarily residing within the jurisdiction of such Gram Sabha and such registers shall,

among other things, contain the names of every adult entitled under section 5 to be a member of a Gram Sabha on the date of its establishment. The register so prepared shall be revised at least once a year in the manner prescribed.

10. If in establishing a Gram Sabha or in constituting or working a Gram Panchayat any dispute or difficulty arises regarding the interpretation of any provision of this Act or any rule made thereunder or any matter arising out of or relating to such interpretation or any matter not provided under this Act, the same shall be referred to the State Government whose decision shall be final and conclusive.

Removal of difficulty in the establishment of Gram Sabha and in constituting or working Gram Panchayat.

CHAPTER III

THE GRAM SABHA—ITS MEETINGS AND FUNCTIONS

11. (1) Every Gram Sabha shall hold two general meetings in each year, one in the summer and the other in winter :

Meetings of the Gram Sabha.

Provided that eight months shall not intervene between the two general meetings:

Provided further that the President may at any time or upon a requisition in writing of not less than one-fifth of the members shall, within 30 days from the receipt of such requisition, call an extraordinary general meeting. On the failure of the President to do so, the prescribed authority shall within a further period of 30 days call an extraordinary general meeting.

(2) The time and place of all the meetings of the Gram Sabha shall be published in the prescribed manner.

(3) For any general meeting of the Gram Sabha one-sixth of the total number of members of the Gram Sabha or one hundred and twenty-five members, whichever is less, shall form the quorum :

Provided that no quorum shall be necessary for a meeting adjourned for want of quorum.

12. (1) Every Gram Sabha shall elect from among its members a President and a Vice-President who shall respectively be called *Pradhan* and *Up-Pradhan* and shall also elect from among its members an Executive Committee called the Gram Panchayat :

Election of President, Vice-President & Establishment and constitution of Gram Panchayat.

Provided that no adult may be President, Vice-President or a member of a Gram Panchayat and continue as such, if he—

- (a) is a servant of the Government or a local authority or is holding any honorary office under the Government in any area of the Gram Sabha or a part thereof;
- (b) holds any salaried office or place of profit in the gift or disposal of Gram Sabha ;
- (c) has directly or indirectly any share or interest in any contract or employment, given by or on behalf of the Gram Sabha; or

(d) ceases to be a member of the Gram Sabha.

(2) The number of members of a Gram Panchayat shall be between seven and twenty-five as may be specified by the State Government in addition to the President and Vice-President of the Gram Sabha who shall also be the President and Vice-President respectively of the Gram Panchayat.

(3) The term of office of the President, the Vice-President and a member of the Gram Panchayat shall be, unless extended by an order of the State Government notified in the Official Gazette, 3 years :

Provided that the term of office of a member chosen to fill a casual vacancy shall be the unexpired portion of the term of the person in whose place he has been elected.

(4) The area of Gram Sabha may be divided by the prescribed authority into such number of constituencies as may be convenient for the purpose of election.

(5) The State Government may reserve such number of seats for Scheduled Castes and for women in the Gram Panchayat as may be prescribed.

(6) The election of the members of Gram Panchayat in a Gram Sabha or in a constituency thereof shall be held on the joint electorate system.

(7) An election may be challenged by petition in such manner and on such grounds as may be prescribed. An election tribunal to try the petition may be formed in the prescribed manner, and its decision shall be final and shall not be questioned in any court of law.

Budget of Gram Sabha. **13.** The Gram Sabha shall at its winter meeting consider and pass the budget for the following year and at its summer meeting it shall consider the accounts of the preceding year. At both meetings the Gram Sabha shall consider the biennial reports of business submitted by the President.

Removal of President or Vice-President of Gram Sabha. **14.** The Gram Sabha may, at any general meeting, remove the President or the Vice-President by a majority of two-third votes of those present :
Provided that a previous notice of the resolution is given as prescribed.

Filling of vacancies in the offices of President and Vice-President. **15.** (1) Election to fill vacancy caused by the expiration of the term of the office of the President or of the Vice-President shall be held before the expiration of the term.

(2) An election to fill a vacancy of the President or of the Vice-President occurring by reasons of his death, resignation, or removal or otherwise, shall be held as soon as possible after and in no case later than six months from the date of occurrence of the vacancy and the person elected to fill the vacancy shall, subject to the provision of section 14, be entitled to hold office for the unexpired portion of the term of the person in whose place he has been elected.

CHAPTER IV

POWERS, DUTIES, FUNCTIONS AND ADMINISTRATION OF
GRAM PANCHAYAT

16. It shall be the duty of every Gram Panchayat so far as its funds may allow to make reasonable provision within its jurisdiction for— Duties and functions

- (a) construction, repair, maintenance, cleaning and lighting of public streets ;
- (b) medical relief ;
- (c) sanitation and taking curative and preventive measures in respect of infectious diseases and epidemic ;
- (d) upkeep, protection and supervision of any buildings or other property which may belong to the Gram Sabha or which be transferred to it for management ;
- (e) registering births, deaths and marriages and maintenance of the register mentioned in section 9 ;
- (f) removal of encroachments on public streets, public places and property vested in the Gram sabha ;
- (g) regulating places for the disposal of the dead bodies of human beings and animals and of other offensive matters ;
- (h) regulation of *melas* and markets within its area except those managed by the State Government ;
- (i) establishing and maintaining primary schools for boys and girls ;
- (j) establishment, management and care of common grazing grounds and land for the common benefit of the persons residing within its jurisdiction ;
- (k) construction, repair and maintenance of public wells, tanks and ponds for the supply of water for drinking, washing and bathing purposes, and regulation of sources of water supply for drinking purposes ;
- (l) regulating the construction of a new building or the extension or alteration of any existing building ;
- (m) assisting the development of agriculture, commerce, and industry ;
- (n) taking steps to prevent fire and rendering assistance in extinguishing fire and protecting life and property when fire occurs ;
- (o) the administration of civil and criminal justice and the selection of a panel of persons for appointment as *Panches* of the Nyaya Panchayat according to the provisions of this Act and rules made thereunder ;
- (p) the maintenance of such records relating to cattle census, population census and other statistics as may be prescribed ;

- (q) maternity and child welfare ;
- (r) allotment of places for storing manure ;
- (s) maintenance and control of waste water channels and drinking places ;
- (t) managing the Panchayat forests according to the rules made in this behalf ;
- (u) maintenance of all such roads, watercourses and hydro-electric installations the management of which has been undertaken by the Panchayat with the sanction of the State Government ;
- (v) necessary financial or labour contribution for the construction of public roads, or watercourses within the Gram Sabha area under the development programme of the State Government ;
- (w) filling in of insanitary depressions and levelling of land; and
- (x) fulfilling any other obligation imposed by any other law on a Gram Sabha.

Discretionary functions. **17.** A Gram Panchayat may also make provision within its jurisdiction for—

- (a) planting and maintaining trees at the sides of public streets and in other public places ;
- (b) the improved breeding and medical treatment of cattle and prevention of disease in them ;
- (c) organizing, subject to rules prescribed, a village volunteer force for watch and ward, for assisting Gram Panchayat and Nyaya Panchayat in the discharge of their functions and for the services of summons and notices issued by them ;
- (d) assisting and advising agriculturists in the obtaining, and distribution among them, of Government loans and in the repayment thereof in the liquidation of old debt and generally in the establishment of sound credit system according to law ;
- (e) development of co-operation and establishment of improved seed and implement stores ;
- (f) relief against famine or other calamity ;
- (g) making representation to the Tehsil Panchayat and Zilla Panchayat for performance by them of such functions in relation to the area within the jurisdiction of the Gram Sabha as is beyond the powers of the Gram Sabha ;
- (h) extension of the *abadi*;
- (i) establishment and maintenance of an *akhara* or club or other places for recreation and games;
- (j) regulating the collection, removal and disposal of manure and sweepings ;
- (k) prohibiting or regulating the curing, tanning, and dying of skins within 220 yards of the *abadi*;
- (l) setting up organisations to promote goodwill and social harmony between different communities ;

- (m) public radio sets and gramophones ;
- (n) any other measure of public utility calculated to promote the moral and material well-being or convenience of the villagers ;
- (o) construction of food storages ; and
- (p) the doing of anything the expenditure on which is declared by the State Government, or by the prescribed authority with the sanction of the State Government, to be an appropriate charge on the fund of the Gram Sabha.

18. A Gram Panchayat shall have control of all public streets and waterways, situate within its jurisdiction not being a private street or a private waterway and not under the control of the State Government, or any other authority specified by the State Government and may do all that is necessary for the maintenance and repair thereof, and may—

- (a) construct new bridges or culverts ;
- (b) divert, discontinue or close any public street, culvert or bridge ;
- (c) widen, open, enlarge or otherwise improve any public street, culvert or bridge with minimum damage to the neighbouring fields ;
- (d) deepen or otherwise improve waterways ;
- (e) undertake small irrigation projects with the sanction of the specified authority ;
- (f) cut any hedge or branch of the tree projecting on a public street ;
- (g) notify the setting apart of any public watercourse for drinking or culinary purposes, and prohibit bathing, washing of clothes and animals or doing of other acts likely to pollute the course so set apart :

Provided that nothing shall be done under clause (g) which may affect any canal or waterway owned by the State without the prior permission of the authority prescribed by the State Government in this behalf.

19. For the improvement of sanitation a Gram Panchayat may, by notice direct the owner or occupier of any land or building, taking into consideration his financial position and giving him reasonable time for compliance thereof—

- (a) to close, remove, alter, repair, cleanse, disinfect or put in good order any latrine, urinal, water closet, drain, cesspool or other receptacle for filth, sullage-water, to remove or alter any door or trap or construct any drain for any such latrine, urinal or water closet which opens on to a street or drain, or to shut off such latrine, urinal or water closet by a sufficient roof and wall or fence from the view of persons passing by or dwelling in the neighbourhood ;

- (b) to cleanse, repair, cover, fill up, drain off, deepen or to remove water from a private well, tank, reservoir, pool, pit, depression or excavation therein which may appear to the Gram Panchayat to be injurious to health or offensive to the neighbourhood ;
- (c) to clear off any vegetation, undergrowth, prickly pear or scrub-jungle ;
- (d) to remove any dirt, dung, night-soil, manure of any noxious or offensive matter therefrom and to cleanse the land or building :

Provided that the persons on whom a notice under clauses (a) and (b) is served may, within 30 days of the receipt of the notice, appeal against the said notice to the District Medical Officer of Health who may vary, set aside or confirm it.

Control
erection
of
buildings.

20. (1) The Gram Panchayat, after preparing a model plan for the village which has been approved by the Gram Sabha and the prescribed authority by written order, may—

- (a) direct that before erecting, re-erecting or adding to a building, wall, or a platform every person shall present an application to the Gram Panchayat and that no building, wall or platform shall be erected, re-erected or added to in conflict with the model plan or in advance of an alignment to be specified and demarcated by the Gram Panchayat; and
- (b) specify the space which shall intervene between any new or enlarged building and the building next adjacent or any road in the village.

(2) The Gram Panchayat shall have the power to modify, return for modification or reject the proposed plan for the erection, re-erection or addition to, a building, wall or platform.

(3) Where any building, wall or platform has been erected, or re-erected or added to in contravention of any order passed under sub-section (1) the President may, subject to the provisions of section 127, apply to the Sub-Divisional Officer and the Sub-Divisional Officer may make an order—

- (i) directing that the work done or so much of the same as has been executed in contravention of the order passed under sub-section (1) shall be demolished by the owner of the building, wall or platform or that it shall be altered by him to the satisfaction of the Gram Panchayat within such time as may be fixed by the Sub-Divisional Officer, or
- (ii) directing that the work done or so much of the same as has been executed in contravention of the order passed under sub-section (1) shall be demolished or altered by the Gram Panchayat at the expense of the owner within such time as may be fixed by the Sub-Divisional Officer :

Provided that the Sub-Divisional Officer shall not make any such order without giving the owner full opportunity of adducing evidence and of being heard.

(4) If any person to whom a direction to demolish or alter any building, wall or platform is given under clause (i) of sub-section (3) fails to obey the same, he shall be liable to a fine which may extend in the case of masonry building, wall or platform to one hundred rupees, and in the case of any other building, wall or platform to twenty-five rupees and when the failure is a continuing one, to a further fine which may extend in the case of a masonry building, wall or platform to five rupees for each day on which the failure continues.

21. (1) A Gram Panchayat—

Maintenance and improvement of schools and hospitals.

(a) shall, subject to such rules as may be prescribed regarding the curriculum, employment and qualification of teachers and supervision of a school, maintain any existing primary school including the buildings and furniture thereof and be responsible for its proper working and may similarly establish and maintain a new school or improve any existing school; and

(b) shall, subject to such rules as may be prescribed regarding the establishment, maintenance and supervision, maintain any existing Ayurvedic, Yunani, or Homoeopathic hospital or dispensary including the buildings and equipments thereof and may similarly establish and maintain a new hospital or dispensary for one or more of the systems of medicine mentioned above.

(2) The State Government and Zilla Panchayats shall make such grants for such school, hospital or dispensary, as may be prescribed.

22. Where a group of neighbouring Gram Sabhas have no primary school or Ayurvedic or Yunani or Homoeopathic hospital or dispensary, the Gram Panchayat thereof shall, if so directed by the prescribed authority, combine to establish and maintain or entrust to the tehsil panchayat the establishment or maintenance of such a school, hospital or dispensary which shall be managed and financed in the manner prescribed. The State Government and the Zilla Panchayat shall make such grants for such school, hospital or dispensary as may be prescribed.

Establishment of primary school and hospital or dispensary for a group of Gram Sabhas.

23. A Gram Panchayat shall, if so prescribed and so far as practicable, assist any Government servant in the performance of his duties within its area.

Assistance to Government servants.

24. A Gram Panchayat may make to the proper authority—

Representations and recommendations by Gram Panchayats.

(a) any representation concerning the welfare of the persons residing within its jurisdiction;

(b) any recommendation as to the appointment, transfer or dismissal of a guard of the Forest Department, patwari, lambardar or chaukidar serving in any

area within the jurisdiction of such Gram Panchayat; and

(c) any recommendation as to—

- (1) grant of trees for construction of a house and fuel,
- (2) grant of a loan or subsidy for economic betterment,
- (3) grant of a licence for possessing a firearm and for shooting,
- (4) grant of a nautor for cultivation to an applicant residing within the jurisdiction of such Gram Panchayat.

Power to enquire and report about the misconduct of certain officials. **25.** On receiving a complaint from any person, residing within the jurisdiction of a Gram Panchayat about any misconduct in the discharge of his official duties by any bailiff, process server, vaccinator, constable, chawkidar, patwari, guard of Forest Department or peon of any Government Department, such Panchayat may, if there be *prima facie* evidence, forward the complaint to the proper authority with its own report. The authority shall after such further enquiry as may be required take suitable action and inform the Gram Panchayat of the result.

Power to contract for collection of taxes and other dues for land-owners. **26.** A Gram Panchayat may, as prescribed and in respect of any area within its jurisdiction, enter into a contract—

- (a) with the State Government to collect any taxes or dues payable to the Government on being allowed by the State Government such collection charges as may be prescribed, or
- (b) with all or any of the landowners to collect rent on his or their behalf on being allowed by the landowner such collection charges as may be prescribed.

Secretary. **27.** (1) Subject to such directions as the State Government may give, there shall be appointed by such authority as may be prescribed a Secretary for every Gram Panchayat or a group of Gram Panchayats. The Secretary so appointed shall be *ex officio* Secretary of the Gram Sabha or Gram Sabhas concerned.

(2) The Secretary shall, in the matter of leave, promotion, transfer, dismissal, removal and other disciplinary action be under the administrative control of the prescribed authority aforesaid which shall exercise its powers and functions in the manner prescribed:

Provided that an order of the prescribed authority removing or dismissing a Secretary shall be appealable within a period and in the manner prescribed to the District Magistrate, or if any other authority is prescribed in this behalf to such other authority.

Staff. **28.** A Gram panchayat may propose to the prescribed authority other staff for employment, whole time or part time, the salaries and allowances, if any, to be paid to them

and the duties to be assigned to each one of them. The prescribed authority may, as prescribed, approve, modify or reject the proposal. If the proposal is not rejected, the Gram Panchayat may appoint the staff in accordance with the scheme as approved by the prescribed authority.

(2) A Gram Panchayat may, subject to the approval of the prescribed authority, make any change in the scheme aforesaid.

(3) Notwithstanding anything contained in sub-section (1), a Gram Panchayat may, in case of any emergency, appoint a servant without the sanction of the prescribed authority, for a period not exceeding three months.

(4) The power of appointment, discharge or dismissal of a servant of a Gram Panchayat shall be exercised by the Panchayat but the power of promotion, disciplinary action or punishment other than that of discharge or dismissal may be delegated to such officer of the Panchayat as may be prescribed:

Provided that an appeal from the order of such officer shall lie to the Gram Panchayat in the manner prescribed.

29. At any meeting of a Gram Panchayat a member may, in the manner prescribed, move any resolution and put question to the President and Vice-President on matters connected with the administration of the Gram Panchayat. Right of individual members.

30. (1) Every member of the Gram Panchayat, Tehsil Panchayat, Zilla Panchayat, any joint committee, or any other committee constituted under this Act shall be liable for the loss, waste or misapplication of any money, or property belonging to the Gram Panchayat, Tehsil Panchayat, or Zilla Panchayat, if such loss, waste or misapplication is a direct consequence of his neglect or misconduct while a member of any Panchayat, joint committee or other committee, and a suit for compensation may be instituted against him by the Panchayat, of which he is a member, with the previous sanction of the prescribed authority. Penalty for causing loss, waste or misapplication of money or property of the Gram Panchayat.

(2) If the prescribed authority sanctions the institution of a suit under sub-section (1) or refuses to grant the sanction the member concerned or the Gram Panchayat, as the case may be, may within 30 days of such sanction or refusal, appeal to the State Government or prescribed appellate authority against the said sanction or refusal.

(3) The State Government may institute a suit mentioned in sub-section (1) on its own initiative.

31. Subject to the prescribed conditions, a Gram Panchayat may establish a Committee to assist it in the discharge of any specified duty or class of duties and may delegate to such committee such of its powers as may be necessary for the purpose of rendering such assistance. Committee.

32. Subject to such rules as may be prescribed two or more Gram Sabhas may combine by means of a written instrument to appoint a joint committee consisting of their representatives for the purpose of transacting any business in which they are jointly interested: Joint Committee.

Provided that they may instead of appointing a joint committee entrust the transaction of that business to the Tehsil Panchayat by a written instrument.

Work to be entrusted to joint Committees or Tehsil Panchayats. **33.** (1) If two or more Gram Sabhas are jointly interested in transacting any business they may delegate to the Joint Committee formed in accordance with the provisions of section 32 or to the Tehsil Panchayat power, with such conditions as they may think proper to impose, to frame any scheme binding on each Gram Sabha as to the construction and maintenance of any joint work and as to the power which may be exercised by any such Sabha in relation to such scheme:

Provided that the Gram Sabhas shall pay the cost of the transaction of the business or the execution of the scheme as to the construction and maintenance of any joint work in such proportion as may be agreed upon in the written instrument mentioned above.

(2) The Gram Sabhas may frame and modify rules regarding the continuation of such a Committee and the term of office of members thereof and the method of conducting proceedings and correspondence.

(3) If any difference of opinion arises between the Gram Sabhas acting under this section, it shall be referred to the prescribed authority whose decision shall be final.

Members and servants to be public servants. **34.** Every member or servant of a Nyaya Panchayat, Gram Panchayat, a Tehsil Panchayat, a Zilla Panchayat, a Joint Committee or any other committee constituted under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

Delegation. **35.** All the duties, powers and functions of the Gram Sabha except those specified in Chapter III and sections 32 and 41 shall be exercised, performed or discharged by the Gram Panchayat and not otherwise.

Gram Fund. **36.** (1) Vested in each Gram Sabha there shall be a Gram Fund which shall be utilized by the Gram Panchayat in accordance with the provisions of the budget passed under section 13 :

Provided that if the Gram Sabha or the Gram Panchayat fails to meet charges in connection with its duties under this Act, the prescribed authority may utilize a part of the Gram Fund to meet any one or more of those charges.

(2) The following shall be credited to the Gram Fund:—

- (a) the proceeds of any tax imposed under this Act;
- (b) all sums handed over by the State Government to the Gram Sabha;
- (c) the balance, if any, standing to the credit of the Village Panchayat previously in existence under the Punjab Village Panchayat Act, as applied to Himachal Pradesh;
- (d) all sums ordered by a court to be placed to the credit of the Gram Fund;
- (e) all sums received under section 129;

- (f) the sale proceeds of all dust, dirt, dung or refuse including the dead bodies of animals collected by the servants of the Gram Panchayat;
- (g) such portion of the rent or other proceeds of *nazul* property as the State Government may direct to be placed to the credit of the Gram Fund;
- (h) sums contributed to the Gram Fund by any Tehsil Panchayat, Zilla Panchayat or other local authority;
- (i) all sums received by way of loan or gift ;
- (j) such other sums as may be assigned to the Gram Fund by any special or general order of the State Government;
- (k) all sums received by the Gram Panchayat from any individual or corporation or the State Government under section 26 or any other law;
- (l) sale proceeds of property vested in Gram Sabha; and
- (m) all licence fees collected by it.

37. (1) (a) Every Gram Panchayat shall prepare and lay before the winter meeting of the Gram Sabha a budget estimate of its income and expenditure for the year commencing on the 1st day of *Baisakh* next following. Preparation and presentation of Budget.

(b) Every Gram Panchayat shall prepare and lay before the summer meeting of the Gram Sabha its report including the accounts of its actual and expected receipts and expenditure for the year ending on the last day of *Chait* preceding such meeting.

(2) The Gram Sabha may pass or refer back to the Gram Panchayat the budget submitted to it for re-consideration with such direction as it may give in the manner prescribed and may likewise pass a recommendatory resolution in respect of the report or of any other matter.

(3) (a) If the budget is referred to the Gram Panchayat for re-consideration as aforesaid, the President shall call an extraordinary general meeting of the Gram Sabha to be held within the fortnight of the said annual meeting and the Gram Panchayat shall re-submit the budget at the said meeting with such modifications as may be necessary in the light of the directions of the Sabha, and the Gram Sabha shall then pass the budget in the manner prescribed.

(b) Subject to rules made in this behalf, the budget shall take effect after it has been approved by the prescribed authority and a Gram Panchayat may incur expenditure under any of the heads of the budget in excess of the amount approved under that head without variation or alteration of the budget with the approval of the prescribed authority.

CHAPTER V

ACQUISITION OF LAND, TAXATION, GRAM FUND AND
PROPERTY

Power to acquire land. **38.** Where a Gram Sabha, a Tehsil Panchayat, a Zilla Panchayat or a number of Gram Sabhas which have combined under the provisions of section 22 or 32 require land to carry out any purpose of this Act, it or they shall first try to have the land by private negotiation, and if the parties concerned fail to arrive at an agreement, such Gram Sabha, or Gram Sabhas, Tehsil Panchayat, or Zilla Panchayat, as the case may be, may make an application in the prescribed form to the Collector to acquire the land and the Collector may acquire such land for such Gram Sabha or Gram Sabhas, Tehsil Panchayat or Zilla Panchayat.

Explanation.—In this chapter the expression ‘land’ includes benefits arising out of land and things attached to the earth or permanently fastened to any thing attached to the earth.

Property vested in Gram Sabha. **39.** (1) Subject to any special reservation made by the State Government, all public property situated within the jurisdiction of a Gram Sabha shall vest in and belong to the Gram Sabha, and shall, with all other property, which may become vested in the Gram Sabha, be under its direction, management and control.

(2) All markets and fairs or such portion thereof as are held upon public land shall be managed and regulated by the Gram Panchayat which shall receive the dues levied or imposed in respect thereof :

Provided that such part of the dues levied or imposed in respect thereof as may be prescribed shall be credited to the Gram Fund and the rest shall be paid to the Zilla Panchayat by the Gram Panchayat.

Disposal of claims. **40.** Where any dispute arises as regards the ownership of any property mentioned in section 39 between a Gram Sabha and any person, the Gram Panchayat shall give such persons a reasonable opportunity of being heard and then decide whether the said property should be treated as the property of Gram Sabha.

Power to borrow. **41.** With the sanction of the prescribed authority and subject to such conditions as may be prescribed a Gram Sabha may borrow money from the State Government to carry out any of the purposes of this Act.

Taxes which may be imposed **42.** (1) A Gram Sabha may impose such taxes as may be approved by the State Government and in such manner as may be prescribed.

(2) The taxes under section (1) shall be imposed, assessed and realised in such manner as may be prescribed.

Realisation of dues, custody of funds and accounts. **43.** The Gram Panchayat shall, as prescribed, arrange for the realisation of taxes and dues, custody of its funds and maintenance of accounts.

Expenses of Nyaya Panchayat. **44.** The expenses of the Nyaya Panchayat shall be charged to the Gram Fund of each unit in a circle in equal shares.

45. All sums realised by way of court fees in any case, suit, or proceeding or by way of fine in cases tried and disposed of by a Nyaya Panchayat shall be handed over by the State Government to the Gram Sabhas situated within the jurisdiction of the Nyaya Panchayat in equal shares. Receipts of the Nyaya Panchayat.

46. The accounts of every Gram Sabha shall be audited as prescribed. Audit.

CHAPTER VI

THE NYAYA PANCHAYAT

47. The State Government or the prescribed authority shall divide a district into circles, each circle comprising as many areas subject to the jurisdiction of Gram Sabhas as may be expedient, and establish Nyaya Panchayat for each such circle. Circle for Nyaya Panchayat.

Provided that the areas of Gram Sabhas within each circle shall, as far as possible, be contiguous.

48. (1) Every Gram Sabha in a circle shall in the prescribed manner select ten adults of prescribed qualifications ordinarily residing within its jurisdiction for the Nyaya Panchayat of that circle. Constitution of Nyaya Panchayat.

Provided that two out of the persons selected by Gram Sabha shall be such as are able to record proceedings.

(2) Out of ten persons so selected the prescribed authority shall nominate five to work as Panches of the Nyaya Panchayat. The Panches so nominated in the circle shall form a panel.

49. All the Panches nominated under section 48 shall elect from amongst themselves a person, who shall act as Sarpanch of the Nyaya Panchayat. Election of Sarpanch.

Provided that any dispute arising out of such election shall be referred to the prescribed authority whose decision shall be final and shall not be questioned in any Court of law.

50. The term of office of every Panch shall be three years from the date of his nomination. Term of Nyaya Panchayat.

51. Every Panch nominated under section 49 shall as soon as possible after his nomination take oath of office in the manner prescribed. Oath of office.

52. A Panch may submit his resignation to the prescribed authority. Resignation.

53. (1) A Panch may be removed at any time by the prescribed authority in the manner and for the reasons prescribed. Removal.

(2) A Panch removed under section (1) shall not be re-nominated as a Panch for a period of three years.

54. (1) The Sarpanch or, in his absence from the circle, the Panch approved by him to act in this behalf shall for the trial of each case, suit or proceeding, form a Bench of five panches in the following manner :— Constitution of Benches.

- (a) At least one of the panches in the Bench shall be a person who is able to record evidence and proceedings; and
- (b) every such Bench shall include one Panch who resides in the area of the Gram Sabha in which the plaintiff of a suit or proceeding or the complainant of a case resides and likewise one panch residing in the area of the Gram Sabha in which the defendant or the accused resides and three Panches residing in the area of the Gram Sabha or Gram Sabhas in which neither party resides:

Provided that in police cases instead of a Panch from the area in which the complainant in a complaint case resides, there shall be a Panch residing in the area of the Gram Sabha in which the offence was committed.

(2) Notwithstanding anything contained in sub-section (1) a suit, case or proceeding may be tried, heard, or decided by any three or four of the five Panches of the Bench and no trial, hearing or decision shall be invalid merely because only three or four of the Panches were present at the trial.

(3) No Panch or Sarpanch shall take part in any case, suit or proceeding to which he or his near relation, employer, employee or partner in business is a party or in which any of them may be personally interested.

(4) Notwithstanding anything in this section the State Government may by rules prescribe the constitution of special benches for determining any dispute arising between any parties or Gram Sabhas of different circles or for any other purpose.

Filling of casual vacancies.

55. If a vacancy in the office of a Panch arises by reason of his death, removal or resignation it shall be filled for the unexpired portion of his term in the manner prescribed and if the Panch vacating the office was a Sarpanch, he shall be elected in the manner provided in section 49.

Territorial Jurisdiction.

56. (1) Notwithstanding anything contained in the Criminal Procedure Code, 1898, every case instituted under this Act shall be instituted before the Sarpanch of the Nyaya Panchayat of the circle in which the offence was committed:

Provided that such case may be instituted before such Panch as has been authorised by the prescribed authority to receive complaints in the area in which the offence was committed.

(2) Notwithstanding anything contained in the Civil Procedure Code, 1908, or in the Punjab Tenancy Act, 1887, as applied to Himachal Pradesh, every suit instituted under this Act shall be instituted either before the Sarpanch of the Nyaya Panchayat of the circle in which the defendant or any of the defendants, where they are more than one, ordinarily resides or carries on business at the time of the institution of the suit irrespective of the place where the cause of action arose:

Provided that such suits may be instituted before such a Panch of the Nyaya Panchayat as has been authorised by the prescribed authority to receive plaints in the area in which the defendant or any of the defendants ordinarily resides or carries on business at the time of the institution of the suit.

(3) Notwithstanding anything contained in the Punjab Land Revenue Act, 1887, as applied to Himachal Pradesh, every proceeding specified under section 73 shall be transferred by the Tehsildar to the Nyaya Panchayat within the local area in which the land concerned is situated and the Nyaya Panchayat shall decide such proceeding in the manner prescribed:.

Provided that where land is included in the local area of more than one Nyaya Panchayat, the Tehsildar shall transfer the proceedings to the Nyaya Panchayat within the area of which the greater part of the land is situated.

57. (1) Offences mentioned in Schedule I or declared by State Government to be cognizable by a Nyaya Panchayat if committed within the jurisdiction of a Nyaya Panchayat and abetment of and attempts to commit such offences shall be cognizable by such Nyaya Panchayat. Offences cognizable by Nyaya Panchayat.

(2) Application for maintenance under section 488 of the Code of Criminal Procedure shall be heard and decided by the Nyaya Panchayat.

58. (1) Whenever the Sarpanch of the Nyaya Panchayat has reason to apprehend that any person is likely to commit a breach of peace or disturb public tranquillity, he may call upon such person to show cause why he should not execute a bond for an amount not exceeding Rs. 100 with or without sureties for keeping the peace for a period not exceeding 15 days. Security for keeping peace.

(2) The Sarpanch shall, after the issue of such notice, constitute within three days a Bench to deal with the matter:

Provided that at least one Panch of such Bench shall belong to the Gram Sabha in which such person resides.

(3) The Bench may either confirm the order or discharge the notice after hearing such person and such witnesses as he may produce within the time fixed by the Nyaya Panchayat.

59. A Nyaya Panchayat may impose a fine not exceeding Rs. 100 but shall not inflict a sentence of imprisonment, either substantive or in default of payment of fine. Penalties.

60. No Court shall take cognizance of any case or suit which is cognizable under this Act by a Nyaya Panchayat established for the area to which the suit relates unless an order has been passed by a Sub-Divisional Judge under Section 89 or section 93. Cognizance of suits.

Transfer of Criminal proceeding to the Nyaya Panchayat in certain cases. **61.** If at any stage of the proceedings in a criminal case pending before a magistrate it appears that the case is triable by a Nyaya Panchayat, he shall at once transfer the case to that Nyaya Panchayat, which shall try the case *de novo*.

Summary disposal of complaint. **62.** A Nyaya Panchayat may dismiss any complaint, if after examining the complainant and taking such evidence as he produces, it is satisfied that the complaint is frivolous, vexatious or untrue.

Return of complaint. **63.** If at any time it appears to a Nyaya Panchayat—

- (a) that it has no jurisdiction to try any case before it, or
- (b) that the offence is one for which it cannot award adequate punishment, or
- (c) that the case is of such a nature or complexity that it should be tried by a regular court, it shall return the complaint to the complainant directing him to file it before the magistrate, having jurisdiction to try such case.

Certain persons not to be tried by the Nyaya Panchayat. **64.** No Nyaya Panchayat shall take cognizance of any offence where the accused—

- (a) has been previously convicted of an offence with imprisonment of either description for a term of three years or more, or
- (b) has been previously fined under section 379 or 497 or 498 of the Indian Penal Code by any Nyaya Panchayat, or
- (c) has been bound over to be of good behaviour under section 109 or 110 of the Code of Criminal Procedure, 1898, or
- (d) has been previously convicted of gambling.

Compensation to the accused. **65.** If a Nyaya Panchayat is satisfied after inquiry that a case brought before it was false, frivolous or vexatious it may order the complainant to pay to the accused such compensation not exceeding ten rupees as it thinks fit.

Enquiry in cases forwarded by Magistrate. **66.** A Magistrate may direct an enquiry to be made under section 202 of the Code of Criminal Procedure, 1898, by a Nyaya Panchayat in any case in which the offence was committed within the territorial jurisdiction of such Nyaya Panchayat and the Nyaya Panchayat shall enquire into the case and submit its report to the said Magistrate.

Extent of jurisdiction. **67.** (1) The jurisdiction of a Nyaya Panchayat shall extend to any suit of the following description if its value does not exceed one hundred rupees—

- (a) a suit for money due on contract other than a contract in respect of immovable property ;
- (b) a suit for the recovery of movable property or for the value thereof;
- (c) a suit for compensation for wrongfully taking or injuring a movable property;
- (d) a suit for damages caused by cattle trespass; and

(e) a suit under clauses (j) and (n) of sub-section (3) of section 77 of the Punjab Tenancy Act as applied to Himachal Pradesh.

(2) Notwithstanding anything contained in sub-section (1) the State Government or the prescribed authority may by notification in the Official Gazette extend the pecuniary jurisdiction of Nyaya Panchayat to Rs. 500 in respect of any or all the suits of the description mentioned in sub-section (1).

68. Parties to a suit may, by a written agreement, refer any suit of the nature mentioned in section 84 to a Nyaya Panchayat for decision by it irrespective of the value of the suit, and the Nyaya Panchayat shall, subject to the rules prescribed determine and dispose of such suit under this Act. Intention of jurisdiction by agreement of the parties.

69. A Nyaya Panchayat shall have no jurisdiction to take cognizance of any of the following suits— Exclusion of Nyaya Panchayat's jurisdiction.

- (1) a suit for a balance of partnership account;
- (2) a suit for a share or part of a share under intestacy or for a legacy or part of a legacy under a will;
- (3) a suit by or against the State or a public servant for acts done in his official capacity.
- (4) a suit by or against a minor, or a person of unsound mind.

70. (1) Every suit instituted before a Nyaya Panchayat shall include the whole of the claim which the plaintiff is entitled to make in respect of the matter in dispute but he may relinquish any portion of his claim in order to bring it within the jurisdiction of the Nyaya Panchayat. Suits to include the whole claims.

(2) If a plaintiff omits to sue in respect of or relinquishes any portion of the claim, he shall not afterwards sue in respect of the portion so omitted or relinquished.

71. Every suit instituted before a Nyaya Panchayat after the period of limitation prescribed therefor in the Schedule shall be dismissed, even though limitation has not been set up as a defence : Limitation.

Provided that, in computing the period of limitation prescribed for any suit the time during which the plaintiff has prosecuted with due diligence the suit against the defendant in any court shall be excluded where the suit is founded upon the same cause of action and was prosecuted in good faith in a court which from defect of jurisdiction or any cause of like nature was unable to entertain it.

72. The decision of the Nyaya Panchayat on the question of title, legal character, contract or obligation shall not bind the parties except in respect of the suit in which such matter is decided. Effect of decision by Nyaya Panchayat.

Proceedings. **73.** (1) The Tehsildar shall transfer to the Nyaya Panchayat, if any, having jurisdiction, all applications :—

- (a) under section 101 of the Punjab Land Revenue Act, as applied to Himachal Pradesh, for defining in accordance with the land revenue records, the limits of any holding, field or other portion of an estate and the Panchayat may so define the limits and may, for the purpose of indicating those limits, require survey-marks to be erected or repaired;
- (b) under section 36 of the said Act, if the relief required is the restoration of possession to the lawful occupant who is found to have been wrongfully dispossessed of landed property within a period of three months previous to the date of filing the application in the office of the Tehsildar:

Provided that the Tehsildar may, for sufficient reasons to be recorded refer any such application to the Sub-Divisional Officer who shall decide whether the application should or should not be transferred to the Panchayat.

(2) A Revenue Officer may in a proceeding under section 36 (2) of the said Act, call for a report from the Panchayat on a question of fact.

Proceedings in revenue. **74.** In proceedings under the Punjab Land Revenue Act, 1887, as applied to Himachal Pradesh, the Nyaya Panchayat shall follow the prescribed procedure.

Res judicata and pending suits. **75.** (1) No Nyaya Panchayat shall try any suit, proceedings or issue in respect of any matter which is pending for decision, or has been heard or decided by a court of competent jurisdiction in former suit between the same parties or between the parties under whom they or any of them claim.

(2) Where a case is pending in any Court against an accused person in respect of any offence or where an accused person has been tried for any offence, no Nyaya Panchayat shall take cognizance of any such offence, or on the same facts, if any other offence of which the accused might have been charged or convicted.

Concurrent jurisdiction. **76.** Where a case, suit or proceeding is maintainable in more than one Nyaya Panchayat, the plaintiff or the complainant or the applicant, as the case may be may bring the case, suit or proceeding in any one of such Nyaya Panchayats. Any dispute regarding jurisdiction shall be decided by the Sub-Divisional Judge or Sub-Divisional Officer having jurisdiction, as the case may be.

Institutions of suits and cases. **77.** (1) Any person may institute a case, or a suit before a Nyaya Panchayat by an oral or written application to the Sarpanch of the Nyaya Panchayat or to such Panch as has been appointed by the prescribed authority in this behalf and shall at the same time pay the prescribed fee. The Court Fees Act, 1870, shall not apply to Nyaya Panchayat except as may be prescribed.

(2) In every suit, the plaintiff shall state its value.

78. (1) Where a suit or a case is instituted orally, the Sarpanch or Panch receiving the application shall record the application without delay the prescribed particulars and take the signature or thumb impression of the applicant thereon. the application to be recorded in register.

(2) The Sarpanch or in his absence such Panch as is mentioned in section 77 shall thereupon or on a reference by Tehsildar appoint a Bench of the Nyaya Panchayat under section 54 and refer the said application to that Bench for disposal and shall also fix a date for the first hearing of the application before the said Bench and give notice of the said date to the applicant and to the members thereof.

79. On the date fixed for the first hearing of a suit, case or proceeding, the Bench formed under section 78 shall, unless the Sarpanch is a member of it, choose one of their members to be the Chairman of that Bench to conduct the proceedings and shall take up the suit, case or proceeding as the case may be. First hearing and election of the Chairman of the Bench.

80. (1) If the plaintiff, the complainant or the applicant fails to appear after having been informed of the time and place fixed for hearing the Nyaya Panchayat may dismiss the suit, case or proceeding or pass such order as it may deem fit. Absence of parties in suits and cases.

(2) The Nyaya Panchayat may hear and decide the suit or proceeding in the absence of the defendant or opposite party, if the summons have been served upon him or if he has been informed of the time and place fixed for hearing.

81. (1) Except as provided in sub-section (2) or to correct a clerical error, a Nyaya Panchayat shall have no power to cancel, revise, or alter any decree or order passed by it. Nyaya Panchayat not to revise or alter its decision.

(2) On an application made within one month of the date of the decree or order or knowledge thereof in case personal service of summons has not been effected a Nyaya Panchayat may, for sufficient reasons to be recorded, restore any suit or proceeding which has been dismissed in default or in which a decree or order has been passed *ex parte*.

82. No legal practitioner shall appear, plead or act on behalf of any party in any suit, case, proceeding or appeal before a Nyaya Panchayat. No legal practitioner to appear.

83. Subject to the provisions of section 82 any party to a suit, case or proceeding may appear before a Nyaya Panchayat either in person or by such servant (not being a tout or a petition writer, partner or relation) authorized by him and permitted by the Nyaya Panchayat to represent him. Appearance in person or by representative.

84. Notwithstanding anything contained in this Act or in any other law for the time being in force, a Nyaya Panchayat may decide any civil or revenue dispute arising in its local area and not pending in any court in Special jurisdiction in matters compromised, etc.

accordance with any settlement, compromise or oath agreed upon by the parties and likewise decide a case if compoundable.

Procedure and power to ascertain truth.

85. (1) The Nyaya Panchayat shall receive such evidence in suit, case or proceeding as the parties may adduce and may call such further evidence as, in their opinion, may be necessary for the determination of the points in issue.

(2) The Nyaya Panchayat may make local investigation in the village to which the dispute relates.

(3) It would be the duty of the Nyaya Panchayat to ascertain the facts of every suit, case or proceeding before it by every lawful means in its power and thereafter to make such decree, or order with or without costs, as to it may seem just and legal.

(4) The Nyaya Panchayat shall follow the procedure prescribed by or under this Act. The Code of Civil Procedure, 1908, the Indian Evidence Act, 1872, the Code of Criminal Procedure, 1898 and the Indian Limitation Act, 1908, shall not apply to any suit, case or proceeding in a Nyaya Panchayat except as provided in this Act or as may be prescribed.

Majority to prevail.

86. In the event of any disagreement between the Panches the opinion of the majority shall prevail.

Dismissal of suits, etc.

87. A Nyaya Panchayat may dismiss any suit or proceeding if after examining the plaintiff or the applicant it is satisfied that the suit or proceeding is frivolous, vexatious or untrue.

Summons to defendant or accused.

88. A Nyaya Panchayat after an application is made under section 77 shall, unless it has been dismissed or otherwise disposed of under the provisions of this Act, cause summons in the prescribed form to be served in the prescribed manner on the defendant or the accused person or an opposite party requiring him to attend and produce his evidence at such time and place as may be stated in the summons and shall at the same time direct the plaintiff or complainant or the applicant to attend and produce his evidence at such time and place.

Failure of the accused to appear.

89. (1) If an accused fails to appear after summons have been served upon him, the Nyaya Panchayat may hear and decide the case in his absence.

(2) On an application made within thirty days of the date of the order, or knowledge thereof in case personal service of summons has been effected, a Nyaya Panchayat may set aside the *ex parte* order and re-hear the case.

Issue of summons to witnesses.

90. A Nyaya Panchayat may, if it considers the evidence of, or the production of a document by, any person necessary in a suit, case or proceeding, issue and cause to be served in the prescribed manner, a summons on such person to compel his attendance or to produce or cause the production of such document and such person shall be bound to comply with the direction contained in the summons.

91. If any person who is summoned by a Nyaya Panchayat by a written order to appear to give evidence or to produce any document before it, wilfully disobeys such summons or notice or order, the Nyaya Panchayat may make a complaint to the Magistrate having jurisdiction and the said person shall be punishable with fine which may extend to twenty-five rupees :

Penalties for failing to appear before the Nyaya Panchayat.

Provided that no woman shall be compelled to appear in person before the Nyaya Panchayat. She may be examined on commission in the manner prescribed :

Provided further that if a document is produced in obedience to a summons issued under this section, the Nyaya Panchayat shall cause the document to be copied, mark the copy, after comparing with the original, to be true copy and return the original document to the person producing the same.

92. (1) An appeal against any order or decision of a bench of the Nyaya Panchayat shall be preferred within a period of 30 days after the date of passing of such order or decision to the Full Bench of the Nyaya Panchayat consisting of the Sarpanch and all the panches of the circle and shall be heard by it in the prescribed manner.

Appeal.

(2) Notwithstanding anything contained in sub-section (1) an appeal may be heard or decided by nine or more of the Panches of the Full Bench of the circle and no hearing or decision shall be invalid merely because of the presence of only nine or more of the Panches at the hearing :

Provided that—

- (a) at least three of the panches of the bench which decided the case, suit or proceeding are present at the hearing;
- (b) the rest of the members of the Full Bench present at the hearing are from at least four Gram Sabhas.

93. (1) A revision from any order or decree passed by a Bench or a Full Bench of the Nyaya Panchayat in a case or suit shall lie to the Sub-Divisional Judge, and in proceedings under the Punjab Revenue Act, 1887, as applied to Himachal Pradesh, to the Sub-Divisional Officer having jurisdiction in the matter.

Revision.

(2) If there has been a miscarriage of justice or if there is an apprehension of miscarriage of justice in any case, suit or proceeding or if the Bench or the Full Bench of the Nyaya Panchayat has exercised jurisdiction not vested in it by law, the Sub-Divisional Judge in respect of any case or any suit and the Sub-Divisional Officer in respect of any proceeding under the Punjab Land Revenue Act, 1887, as applied to Himachal Pradesh may on the application of any party or on his own motion, at any time in a pending case, suit or proceeding, as the case may be, and within 60 days from the date of decree or order, call for the

record of the case, suit or proceeding, as the case may be, from the Nyaya Panchayat and for reasons to be recorded in writing—

- (a) cancel the jurisdiction of the Nyaya Panchayat with regard to any case, suit or proceeding, or
- (b) quash any decree or order passed by the Nyaya Panchayat at any stage.

(3) Where an order has been passed by the Sub-Divisional Judge under sub-section (1) in respect of any case or suit, trial on complaint or otherwise in respect of the same offence, or on the same cause of action and for the same relief may be started in the court of the Sub-Divisional Judge having jurisdiction to try the case or suit, and the period from the date of the institution of the suit before the Nyaya Panchayat to the date of such order shall be excluded in computing the period of limitation for the fresh suit.

(4) Where an order has been passed under sub-section (1) by a Sub-Divisional Officer in respect of any proceeding under the Punjab Land Revenue Act, 1887, as applied to Himachal Pradesh, a proceeding in respect of the same relief and on the same facts may be started before the Revenue Court having jurisdiction in the matter, and the period from the date such proceeding was pending before the Nyaya Panchayat to the date of such order shall be excluded in computing the period of limitation for the fresh proceeding.

Finality of the decree or order of the Nyaya Panchayat. **94.** Subject to the provisions of sections 92 and 93, a decree or order passed by a Nyaya Panchayat in any suit, case or proceeding under this Act shall be final.

Frivolous applications for revision. **95.** If any application under sub-section (2) of section 93 is frivolous, the applicant may be fined up to rupees fifty by the Sub-Divisional Judge, Magistrate or the Sub-Divisional Officer as the case may be.

Payment or adjustment of decree to be recorded. **96.** If on the application of the decree-holder or the judgment-debtor, the Nyaya Panchayat which passed the decree finds after enquiry that the decree has been satisfied, wholly or in part, the Nyaya Panchayat shall record the fact in the prescribed register.

Execution of decrees. **97.** (1) A decree or order passed by a Nyaya Panchayat shall be executed in such manner as may be prescribed. If the defendant's property is situated outside the jurisdiction of the Nyaya Panchayat passing such order or decree, it may transfer the decree or order for execution in the prescribed manner to the Nyaya Panchayat within whose jurisdiction the property may be situated, and if there be no such Nyaya Panchayat then to the Court of the Sub-Divisional Judge within whose jurisdiction it may be situated.

(2) If a Nyaya Panchayat finds any difficulty in executing a decree, it may forward the decree to the Sub-Divisional Judge, and the Sub-Divisional Judge shall then execute the decree as if it were a decree passed by him.

(3) An order under the Punjab Land Revenue Act, 1887, as applied to Himachal Pradesh shall, as far as possible, be executed as provided in sub-sections (1) and (2). Sub-section (2) shall be read and construed as if for the words "Sub-Divisional Judge" the words "Sub-Divisional Officer" were substituted.

98. The fine imposed in a case by a Nyaya Panchayat shall be recoverable in the manner prescribed. If the Nyaya Panchayat finds any difficulty in its recovery, it may request the Sub-Divisional Judge within whose jurisdiction the circle of the Nyaya Panchayat lies to recover it and he shall recover it as if the sentence of fine had been passed by him.

CHAPTER VII

TEHSIL AND ZILLA PANCHAYATS

99. The State Government shall by notification establish a Tehsil Panchayat and a Zilla Panchayat for each Tehsil and Zilla.

Constitution of Tehsil Panchayat and Zilla Panchayat.

100. The number of members of a Tehsil Panchayat or a Zilla Panchayat shall be between ten and forty as may be prescribed by the State Government.

Number of members.

101. A Tehsil Panchayat shall be constituted of—

- (a) members appointed by the State Government either by name or by official designation ;
- (b) elected members, one member being returned by each Gram Panchayat, Municipal Committee and Notified Area Committee of the Tehsil as its representative in the Tehsil Panchayat :

Appointment and election of members of Tehsil Panchayat.

Provided that the number of the appointed members shall not exceed twenty-five per cent. of the total number of members of the Tehsil Panchayat.

102. A Zilla Panchayat shall be constituted of—

- (a) members appointed by the State Government by name or official designation ;
- (b) elected members—the number to be returned by each Tehsil Panchayat of the district as its representative in the Zilla Panchayat being as prescribed:

Appointment and election of members of Zilla Panchayat.

Provided that the number of appointed members shall not exceed forty per cent. of the total number of members of the Zilla Panchayat.

103. (1) The Tehsildar shall function as the President of the Tehsil Panchayat and the Deputy Commissioner as the President of Zilla Panchayat.

(2) In the absence of the Tehsildar or the Deputy Commissioner, the Tehsil Panchayat or the Zilla Panchayat, as the case may be, shall elect a President for the meeting.

Quorum.

104. For a meeting of the Tehsil Panchayat or the Zilla Panchayat one-third of the total number of members of the Tehsil Panchayat or Zilla Panchayat, as the case may be, shall form the quorum:

Provided that no quorum shall be necessary for a meeting adjourned for want of quorum:

Term of office of members.

105. The term of office of a member of the Tehsil Panchayat or the Zilla Panchayat shall be three years.

Provided that the term of the office of a member appointed or elected to fill a casual vacancy shall be the unexpired portion of the term of the person in whose place he has been appointed or elected.

Meetings.

106. (1) The Tehsil Panchayat will ordinarily meet once a month.

(2) The Zilla Panchayat will ordinarily meet once a quarter.

(3) A meeting of the Tehsil Panchayat or Zilla Panchayat may be called at any time by the Tehsildar or the Deputy Commissioner, as the case may be, on his own motion or on the requisition of at least five members of the Panchayat.

Local Rate.

107. (1) Except as hereinbefore provided all land shall be subject to the payment of a rate, to be called the local rate at twenty per cent. of the land revenue, which shall be payable and recoverable along with the land revenue.

(2) State Government may, by notification,—

(a) exempt any land or class of land from the levy of the local rate, or

(b) in respect of the whole or in part of the area subject to the authority of Tehsil Panchayat, abolish or reduce, or on the recommendation of the Tehsil Panchayat, increase the local rate.

Appropriation of proceeds of local rate.

108. The proceeds of the local rate levied in each Tehsil shall be allotted to the Tehsil Panchayat established for the Tehsil under this Act.

Tehsil Fund.

109. There shall be a Tehsil Fund for each Tehsil Panchayat and shall be constituted as below—

(a) contribution from Gram Panchayats of the Tehsil ;

(b) local rate ;

(c) grants by the Government ; and

(d) donation and other receipts.

110. (1) Subject to the general or special orders that Taxation. the State Government may make in this behalf and subject to the rules made by the Zilla Panchayat under this Act in this behalf the Zilla Panchayat may impose any of the following taxes—

- (a) a tax on trade, callings and professions;
- (b) a tax on fairs ; and
- (c) a tax on conveyance, vehicles and beasts of burden.

(2) Notwithstanding anything contained in sub-section (1) no tax shall be imposed except with the previous sanction of the State Government.

111. A Zilla Panchayat may reduce or remit any tax Reduction or payable by any person on the ground of his poverty or remission of lack of means. taxes.

112. There shall be a Zilla Fund for each Zilla Pancha- Zilla Fund. yat and shall be constituted as below:—

- (a) tax imposed by the Zilla Panchayat ;
- (b) grants by the Government ; and
- (c) donations and other receipts.

113. The expenses of the Tehsil Panchayat or the Zilla Expenditure. Panchayat shall be charged to the Tehsil Fund or the Zilla Fund as the case may be.

114. The Tehsil Panchayat or the Zilla Panchayat Staff. may appoint any number of servants for carrying out the functions of the Tehsil Panchayat or the Zilla Panchayat, as the case may be. The power of dismissal, discharge and punishment of the servants so appointed shall vest in the Panchayat by which they have been appointed.

115. The Tehsil Panchayat shall, subject to the rules Duties of made in this behalf and in so far as its funds may allow, Tehsil Panchayat. perform the following duties—

- (a) holding Panchayat conferences ;
- (b) arrangement for adult education ;
- (c) establishment and maintenance of libraries, reading rooms, etc.;
- (d) organisation of centre for the training of Panches; and
- (e) other duties as may be prescribed.

116. The Zilla Panchayat shall, subject to the rules Duties of made in this behalf and in so far as its fund may allow, Zilla Panchayat. perform the following duties—

- (a) the management of all property vested in the Zilla Panchayat ;
- (b) construction, repair and maintenance of public roads and other means of communications ;
- (c) the establishment, management, maintenance and visiting of public hospital, dispensary, dharmshala

and schools and the construction and repair of all buildings connected with these institutions;

- (d) the supply, storage and preservation from pollution of water for drinking and bathing purposes;
- (e) the planting and preservation of trees ;
- (f) the establishment, maintenance, visiting and management of markets and other public institutions, and the construction and repairs of buildings connected with these institutions;
- (g) the construction and repairs of embankment and supply, storage and control of water for agricultural purposes ;
- (h) the preservation and reclamation of soil, and the drainage and reclamation of swamps ;
- (i) the maintenance of famine preventive works, relief works, relief houses and such measures in time of famine or scarcity as may be entrusted to the charge of the Zilla Panchayat by the State Government; and
- (j) other duties as may be prescribed.

Licences.

117. A Zilla Panchayat may by a special resolution, and where required by State Government, shall make bye-laws applicable to the whole or any part of the district consistent with this Act and with any rule for—

- (a) imposing the obligation of taking out licences on the proprietors or drivers of vehicles other than motor vehicles, boats, or animals kept for plying for hire, or on persons who carry loads on payment within the limits of their district and fixing the fees payable for such licences and the conditions on which they may be granted and revoked, and
- (b) limiting the rates which may be demanded for the hire of a carriage, cart, boat, and other conveyance or of animals hired to carry loads or for the services of the person hired to carry loads and the loads to be carried out by such conveyance, animal or person.

CHAPTER VIII

EXTERNAL CONTROL

Inspection,
dissolution of
Panchayats
and Committees
and removal of a
member.

118. The State Government may—

- (a) cause to be inspected any immovable property owned by a Gram Sabha, used or occupied by a Gram Panchayat, Tehsil Panchayat, Zilla Panchayat, Joint Committee or any work in progress under the directions of such Gram Panchayat, Tehsil Panchayat, Zilla Panchayat, or Joint Committee ;

- (b) by an order in writing call for and inspect a book or document in the possession or under the control of Gram Panchayat, Tehsil Panchayat, Zilla Panchayat or a Joint Committee ;
- (c) by an order in writing requiring a Gram Panchayat, a Tehsil Panchayat, a Zilla Panchayat or a Joint Committee to furnish such statements, reports or copies of documents, relating to the proceedings or duties of the Gram Panchayat, Tehsil Panchayat, Zilla Panchayat or such committee as it thinks fit;
- (d) record in writing for the consideration of a Gram Panchayat, Tehsil Panchayat, Zilla Panchayat or Joint Committee any observation which it thinks proper in regard to the proceedings or duties of such Gram Panchayat, Tehsil Panchayat, Zilla Panchayat or Joint Committee;
- (e) institute any enquiry in respect of any matter relating to a Gram Sabha, Gram Panchayat, Nyaya Panchayat, Tehsil Panchayat or Zilla Panchayat ; and
- (f) dissolve any Gram Panchayat, Tehsil Panchayat, Zilla Panchayat or Nyaya Panchayat or Joint Committee, or remove or suspend a member thereof if in the opinion of the State Government such Gram Panchayat, Tehsil Panchayat, Zilla Panchayat, Joint Committee, Nyaya Panchayat or a member has abused its or his position or has continuously failed to perform the duties imposed by the Act or any rule made thereunder. When any Panchayat or Joint Committee has been dissolved the State Government may appoint such person or persons as it may deem fit to exercise or perform the powers and duties of the Panchayat or Joint Committee.

119. (1) The prescribed authority or any other officer specially empowered in this behalf by the State Government on information received or on his own initiative may by order in writing prohibit the execution or further execution of a resolution or order passed or made under this or any other enactment by a Gram Sabha, Gram Panchayat or a Tehsil Panchayat, Zilla Panchayat, a Joint Committee or any officer or servant thereof, if in his opinion, such resolution or order is of a nature as to cause or likely to cause obstruction, annoyance or injury to the public or to human life, health or safety, or riot or affray. It may prohibit the doing or continuance by any person of any act in pursuance of or under cover of such resolution or order.

Prohibitory order.

(2) Where an order is made under sub-section (1) a copy thereof, with a statement of the reasons for making it, shall forthwith be forwarded by the prescribed authority or the aforesaid officer to the State Government which may after calling for an explanation from the Gram Sabha

Gram Panchayat, Tehsil Panchayat, Zilla Panchayat, or the officer or servant thereof and considering the explanation, if any, made by it, rescind, modify or confirm the order.

(3) Where the execution or further execution of a resolution or order is prohibited by an order made under sub-section (1) and continuing in force, it shall be the duty of the Gram Sabha, Gram Panchayat, Tehsil Panchayat, Zilla Panchayat or Joint Committee, or any officer or servant thereof if so required by the authority making such order to take any action which it would have been entitled to take, if the resolution or order had never been made or passed and which is necessary for preventing any person from doing or continuing to do anything under cover of the resolution or order of which the further execution is prohibited.

Delegation of powers. **120.** The State Government may delegate all or any of its powers in this Act to any officer or authority subordinate to it subject to such conditions and restrictions as it may deem fit to impose.

CHAPTER IX

PENALTIES AND PROCEDURE

Penalty for infringement of the provisions of the Act. **121.** Whoever contravenes any provision of this Act, shall be punishable, unless otherwise prescribed with fine, which may extend to ten rupees, and when the breach is a continuing one with further fine which may extend to one rupee for every day after the first conviction during which an offender is proved to have persisted in the offence.

Infringement of rules and bye-laws. **122.** In making a rule the State Government and in making a bye-law a Gram Panchayat or a Zilla Panchayat may, with the sanction of the prescribed authority, direct that a breach of it shall be punishable with fine which may extend to ten rupees, and when the breach is a continuing one with a further fine which may extend to one rupee for every day after the date of the first conviction during which the offender is proved to have persisted in the offence.

Penalty for tampering with the Panchayat's property. **123.** (1) Whoever removes, displaces or makes an alteration in or otherwise interferes with any pavement, gutter or other material of a public street, or any fence, wall or post thereof, or a lamp post or bracket, direction post, stand post, hydrant or other such property of the Gram Sabha without the written sanction of the Gram Panchayat or other lawful authority shall be punishable with fine which may extend to ten rupees.

(2) If through any act, neglect or default on his part, a person has incurred a penalty imposed by sub-section (1) and has caused any damage to the property of the Gram Sabha, Tehsil Panchayat, or Zilla Panchayat, the person incurring such penalty shall be liable to make good such damage as well as to pay such penalty, and the damages may be recovered from the offender in the prescribed manner.

124. (1) Where any person liable to pay any tax imposed under this Act is in default in making a payment of the tax the Panchayat which imposed the tax may in its discretion direct that in addition to the amount of the arrears a sum at the maximum rate of five per cent. of the amount of the arrears for every day of default not exceeding that amount shall be recovered from him by way of penalty: Arrears of tax, penalty and recovery.

Provided that the penalty may for sufficient reasons to be recorded be waived by the Panchayat imposing the tax.

(2) The President of the Panchayat imposing the tax may forward to the Collector a certificate under his signature specifying the amount of the arrears of the tax due from any person liable to pay it, and the Collector on receipt of such certificate, shall proceed to recover the amount specified therein as arrears of land revenue.

(3) Any sum imposed by way of penalty shall be recoverable in the manner provided for the recovery of arrears of tax.

125. If a notice has been given to a person under the provisions of this Act or of any rule or bye-law made thereunder to a person requiring him to execute a work in respect of any property, immovable or movable, public or private, or to provide or refrain from doing anything within a time specified in the notice, and such person fails to comply with the notice, then— Disobedience to notice issued.

(a) the Gram Panchayat, Tehsil Panchayat or Zilla Panchayat may cause such work to be executed or such thing to be provided or done, and may recover all expenses incurred by it on such account from the said person in the prescribed manner; and

(b) such person shall also be liable on conviction before a magistrate, to a fine which may extend to ten rupees and in case of a continuing breach of a further fine which may extend to one rupee for each day after the date of the first conviction during which the offender is found to have persisted in the offence.

126. No notice shall be invalid on account of any defect or omission in its form. Notice not to be invalid.

127. (1) Any person aggrieved by an order or direction made by a Gram Panchayat, Tehsil Panchayat or a Zilla Panchayat, under the Act or under any rule or bye-law may, unless otherwise prescribed, within thirty days from the date of such direction or order, exclusive of the time requisite for obtaining a copy thereof, appeal to the prescribed authority which may vary, set aside or confirm the said order or direction and may also award costs to or against the person filing the appeal. Appeals to prescribed authority.

(2) The prescribed authority may, if it thinks fit, extend the period allowed by sub-section (1) for appeal.

(3) The decision of the prescribed authority under subsection (1) shall be final and shall not be questioned in any court of law.

Suspension
of prosecu-
tion in cer-
tain cases.

128. When an appeal under section 127 has been filed against an order or direction any proceeding to enforce such order direction or any prosecution for the breach thereof may, by order of the prescribed authority, be suspended pending the decision of the appeal, and if such order or direction is set aside on appeal, disobedience thereof shall not be deemed to be an offence.

Power to
compound
offences.

129. (1) subject to any rule made in this behalf, a Gram Panchayat, Tehsil Panchayat or Zilla Panchayat may, either before or after the institution of any case, compound an offence against this Act or any rule or bye-law made thereunder on payment of such sum in cash to the Gram Panchayat, Tehsil Panchayat or Zilla Panchayat as may be prescribed.

(2) When an offence has been compounded the offender, if in custody, shall be discharged and no further proceedings shall be taken against him in respect of the offence so compounded.

(3) All sums paid by way of composition under this section shall be credited to the Panchayat Fund.

Entry and
inspection.

130. (1) The President of the Gram Panchayat or the Tehsil Panchayat or Zilla Panchayat and, if authorized in this behalf by the Panchayat, any other member, officer, or servant of the Panchayat may enter into or upon any building or land, with or without assistants or workmen, in order to make an inspection or survey or to execute a work which a Gram Panchayat, Tehsil Panchayat or Zilla Panchayat is authorised by this Act or by rules or bye-laws made thereunder, to make or execute, or which is necessary for a Gram Panchayat for any of the purposes or in pursuance of any of the provisions of this Act or of rules or bye-laws, to make or execute:

Provided that—

- (a) except when it is in this Act or rules or bye-laws otherwise expressly provided, no such entry shall be made between sunset and sunrise, and
- (b) except when it is in this Act or in rules or bye-laws otherwise expressly provided, no building which is used as a human dwelling shall be so entered save with the consent of the occupier thereof and without giving the said occupier not less than four hours previous written notice of the intention to make such entry.

(2) Due regard shall always be had to the social and religious usages of the occupants of the premises entered. Sufficient notice shall in every instance be given even when any premises can otherwise be entered without notice to enable the inmates of any apartment appropriated for females to remove to some part of the premises where their privacy shall not be disturbed.

131. (1) No suit or other legal proceedings shall be instituted against a Gram Sabha, a Gram Panchayat, a Tehsil Panchayat or a Zilla Panchayat or against a member, officer, or servant of the Gram Panchayat or Tehsil Panchayat or Zilla Panchayat or against any person acting under its or his direction for anything done or purporting to have been done in his official capacity under this Act, until the expiration of two months next after notice in writing has been, in the case of a Panchayat, delivered in or left at the office of the Panchayat and in the case of a member, officer or servant or any person acting under his direction or the direction of the Panchayat, delivered to him or left at his office or place of abode, explicitly stating the cause of action, the nature of the reliefs sought, the amount of compensation, if any, claimed, and name and place of abode of the intending plaintiff, and the plaint shall contain a statement that such notice has been so delivered or left.

Suits against Gram Sabha, Gram Panchayat, Tehsil Panchayat or Zilla Panchayat or its officers.

(2) No action, such as is described in sub-section (1) shall be commenced otherwise than within six months next after the accrual of the cause of action.

132. (1) The provisions of the Judicial Officers' Protection Act, 1850, shall apply to the members of Nyaya Panchayat.

Protection to Panchayat.

(2) No suit or prosecution shall be entertained in any court against a Panchayat, any member or officer thereof, any person acting under its or his direction in respect of anything in good faith done or intended to be done under this Act or any rule or bye-law made thereunder.

133. Every police officer shall give immediate information to the panchayat of an offence coming to his knowledge which has been committed against this Act or any rule or bye-law made thereunder and shall assist all members and servants of the Panchayat in the exercise of their lawful authority.

Power and duties of police in respect of offences and assistance to Panchayats.

134. If any dispute arises between two or more Panchayats or between a Panchayat and the Notified Area, Town Area or a Municipal Committee, it shall be referred to the prescribed authority whose decision shall be final and shall not be questioned in any court of law.

Dispute between local authorities.

CHAPTER X

RULES, BYE-LAWS AND REPEALS

135. (1) The State Government may, subject to the condition of previous publication by notification in the official Gazette, make rules consistent with this Act to carry out the purposes of this Act.

Power of State Government to make rules.

(2) In particular and without prejudice to the generality of the foregoing power such rules may provide for—

- (i) any matter for which power to make provision is conferred expressly or by implication on the State Government by this Act ;

- (ii) the establishment of Gram Sabha, Gram Panchayat, Tehsil Panchayat, Zilla Panchayat and Nyaya Panchayat;
- (iii) the time and place of the meetings of Gram Sabha, Gram Panchayat, Tehsil Panchayat, Zilla Panchayat and Nyaya Panchayat and the manner of convening meetings and giving notice thereof;
- (iv) the conduct of proceedings including the asking of questions by members at meetings and the adjournment of meetings and also minute books of meetings;
- (v) the establishment of committees and the determination of all matters relating to the constitution and procedure of such committees ;
- (vi) the suspension and removal of office bearers;
- (vii) the records and registers that shall be maintained by Gram Panchayat, Tehsil Panchayat, Zilla Panchayat or Nyaya Panchayat and the form in which they are to be maintained ;
- (viii) the action to be taken on the occurrence of a vacancy in the executive committee, joint committee, any other committee and Nyaya Panchayat ;
- (ix) the authority by which disputes in relation to appointments to executive committee, joint committee any other committee or Nyaya Panchayat may be decided and the procedure to be followed therein;
- (x) the amount and nature of security to be furnished by a servant of a Panchayat from whom it is deemed expedient to require security;
- (xi) appointment, qualification, dismissal, discharge, removal, punishment and other matters relating to the conditions of service, leave, transfer, pay and privileges of the servants of Panchayats and their right of appeal ;
- (xii) management and regulation of provident fund for the servants of a Panchayat if the system of provident fund is adopted by any Panchayat ;
- (xiii) the establishment, maintenance and management of hospitals and schools and the construction and repair of buildings thereof;
- (xiv) the establishment, administration and control of libraries, reading rooms, dispensaries entrusted to a joint committee, Tehsil Panchayat, the construction and repairs of buildings connected therewith and the supply of medicine and medical assistance to the poor inhabitants of the local area of a Gram Sabha ;
- (xv) the discovery, removal and destruction of water hyacinth, grass or other wild growth on any land, premises or water, the construction of fences and barriers for checking its movements and the cost incurred in carrying out such works ;
- (xvi) action in regard to the sanitation, conservancy, drainage, buildings, public streets and water supply and the prohibition of public nuisance;

- (xvii) the framing of budget and earmarking of funds for specific purposes ;
- (xviii) the return to be submitted by Panchayats and Nyaya Panchayats in the form in which they are to be, the authorities to which and the time when they shall be submitted ;
- (xix) the levy of taxes and licence fees, the authority by which and the manner in which the taxes may be assessed and the authority to which an appeal from an assessment order may be made ;
- (xx) the method and time of payment of taxes and other dues, the procedure of recovery and the authority whose assistance may be taken by Gram Panchayats in the recovery of taxes and dues ;
- (xxi) the method of account keeping by Panchayats ;
- (xxii) the maintenance of public and *nazul* land ;
- (xxiii) the formalities to be observed when transferring any property and the manner in which a deed of contract may be executed by a Panchayat ;
- (xxiv) powers of auditors, inspecting and superintending authorities to hold inquiries, summoning and examining witnesses, compelling the production of documents and all other matters connected with audit, inspection and superintendence ;
- (xxv) the issue, service or execution of summons, notices and other processes of Nyaya Panchayat and issue and service of notices by Panchayat ;
- (xxvi) the transfer by a Nyaya Panchayat of summons and other processes to another Nyaya Panchayat or any court for service or execution ;
- (xxvii) the fees to be levied by Nyaya Panchayat for institution of suits and cases, for issue of processes for obtaining copies of documents and other matters ;
- (xxviii) the court-fees and other fees payable where a Nyaya Panchayat, with the consent of parties, entertains a suit which is otherwise beyond its jurisdiction ;
- (xxix) the procedure for execution of a decree, order and a sentence passed by Nyaya Panchayat ;
- (xxx) the allotment by Panchayats of funds for the performance by Nyaya Panchayats of their duties under this Act and the extent to which fees paid to Nyaya Panchayats may be appropriated by Gram Panchayats ;
- (xxxi) the powers that may be exercised by any prescribed authority in the discharge of their obligations under this Act and the manner in which such powers may be exercised ;
- (xxxii) the procedure to be observed in the making of bye-laws by prescribed authority for a Panchayat or by a Panchayat ;

- xxxiii) prescribing and printing of forms and registers;
- (xxxiv) the submission for approval of plans, designs, specifications and estimates ;
- (xxxv) the duties, powers and functions of village volunteer force ;
- (xxxvi) the submission of annual reports by Panchayats and their review ;
- (xxxvii) persons, other than members of Panchayats who may be present in any advisory capacity in meetings of Panchayats ;
- (xxxviii) channel of correspondence between a Panchayat and other authorities ;
- (xxxix) disposal of assets and liabilities of a Panchayat on its abolition ;
- (xl) the action to be taken on the inclusion of the whole or part of the local area of any Gram Panchayat in any municipality, notified area, town area or cantonment, and the manner in which the assets and liabilities of the Gram Panchayat may be disposed of in such circumstances ;
- (xli) the conditions subject to which sums due to a Panchayat may be written off as irrecoverable, and the conditions subject to which the whole or any part of fee may be remitted ;
- (xlii) the regulation of the election of the members of the Panchayat in order to secure representation of the Scheduled Castes and women; and
- (xliii) generally for the guidance of Panchayats, Nyaya Panchayats, Joint Committees, other Committees, servants of the Government and other authorities in any matter connected with the carrying out of the provisions of this Act.

Power of prescribed authority to frame bye-laws.

136. The prescribed authority may, and when required by the State Government, shall make bye-laws for the Panchayat within its jurisdiction consistent with the Act and the rules made thereunder for the purpose of promoting or maintaining the health, safety and convenience of persons residing within the jurisdiction of a Panchayat and for furtherance of administration of the Panchayats under this Act.

Powers of Panchayats to frame bye-laws.

137. (1) Subject to the Provisions of this Act and rules made thereunder and the bye-laws, if any, made by the prescribed authority, a Panchayat may frame bye-laws:—

- (a) to prohibit the removal or use of water for drinking purposes from any source which is likely to cause danger to health and to prohibit the doing of anything likely to contaminate any source of drinking water;
- (b) to prohibit or regulate the discharge of water from any drain or premises on a public street or into a river, pond, tank, well or any other place;

- (c) to prevent damage to public streets and Panchayat property ;
- (d) to regulate sanitation, conservancy and drainage in the area of a Panchayat ;
- (e) to prohibit or regulate the use of public streets or other public places by shopkeepers or other individuals or collection of market tolls on public streets ;
- (f) to regulate the manner in which tanks, ponds and cess-pools, pasture land, playground, manure pits, land for disposal of dead bodies and bathing places shall be maintained and used ;
- (g) to prescribe, regulate, prohibit and prevent any other matter as may be prescribed.

(2) The draft of bye-laws framed by Panchayats shall be published in the prescribed manner. Any objection received thereto shall be considered at the meeting of a Panchayat and the bye-laws shall then be submitted together with the objections, if any, received and the decisions taken thereon to the prescribed authority. The bye-laws as sanctioned by the prescribed authority shall come into force after they have been published in the prescribed manner.

138. (1) On and from the date on which the Gram Sabha is established in any area under this Act—

Repeal and
transitory
provisions.

- (a) The Punjab Village Panchayat Act, 1939, as applied to Himachal Pradesh, shall be deemed to be repealed in respect of such area and the Panchayat, if any, established thereunder in such area shall be abolished, its fund and other properties shall vest in, and its liabilities shall be transferred to such Gram Sabha, and cases and suits, if any pending on such date before that Panchayat, shall be transferred to a Nyaya Panchayat, if any established in that area, or where no such Nyaya Panchayat exists, to the Criminal or Civil Court, as the case may be, of lowest grade having jurisdiction therein:

Provided that where in the area of any Panchayat established under the Punjab Village Panchayat Act, 1939, as applied to Himachal Pradesh more than one Gram Sabha have been established, the fund, properties, and liabilities of such Panchayat shall be distributed among such Gram Sabhas in accordance with the prescribed rules.

- (b) The Punjab District Board Act, 1883, as applied to Himachal Pradesh shall be deemed to be repealed in respect of the districts to which this Act has been made applicable, and the District Board if any established thereunder in such district shall be abolished. Its funds and other properties will vest in and its liabilities shall be transferred to such Zilla Panchayat, if any established in that District, and where no such Zilla Panchayat exists, to the Collector of the District for being utilized for the benefit of the District.

SCHEDULE I

No.	Name of Act or Code	Offence	Section
1.	Indian Penal Code .	Committing affray	160
2.	Do.	Absconding to avoid service of summons or other proceedings of the Panchayat.	172
3.	Do.	Non-attendance in obedience to an order from public servant.	174
4.	Do.	Refusing oath or affirmation when duly required by a public servant.	178
5.	Do.	Intentional insult or interruption to public servant sitting in judicial proceeding in so far as it may relate to Nyaya Panchayat.	228
6.	Do.	Offences relating to weight and measures mentioned in Chapter XIII.	264 to 267
7.	Do.	Defiling the water of a public spring or reservior .	277
8.	Do.	Driving or riding on a way so rashly or negligently as to endanger human life, etc.	279
9.	Do.	Danger of obstruction in public way or line of navigation.	283
10.	Do.	Dealing with fire or any combustible matter so as to endanger human life, etc.	285
11.	Do.	Dealing with any explosive substance so as to endanger human life, etc.	286
12.	Do.	Omitting to guard against probable danger to human life from a building over which a person has right to pull down or repair.	288
13.	Do.	Negligent conduct with respect to any animal. .	289
14.	Do.	Committing a public nuisance	290
15.	Do.	Obscene acts and songs	294
16.	Do.	Voluntarily causing hurt	323
17.	Do.	Voluntarily causing hurt on provocation . . .	334
18.	Do.	Doing any act which endangers human life or the personal safety of others.	336
19.	Do.	Wrongfully restraining any person	341
20.	Do.	Assault or use of criminal force otherwise than on grave provocation.	352
21.	Do.	Assault or use of criminal force to a woman with intent to outrage her modesty.	354
22.	Do.	Assault or use of criminal force on grave and sudden provocation.	358
23.	Do.	Dishonest misappropriation	403
24.	Do.	Criminal breach of trust	406
25.	Do.	Dishonestly receiving stolen property	411
26.	Do.	Cheating	417
27.	Do.	Mischief when the damage or loss caused does not exceed fifty rupees in value.	426
28.	Do.	Mischief by killing or maiming cattle, etc., of any value of Rs. 50.	429

} Provided the amount of property involved does not exceed Rs. 100.

SCHEDULE I—*contd.*

No.	Name of Act or Code	Offence	Section
29.	Do. Indian Penal Code.	Criminal trespass	447
30.	Do.	House trespass	448
31.	Do.	Adultery	497
32.	Do.	Enticing or taking away or detaining with a criminal intent a married woman.	498
33.	Do.	Insult intended to provoke breach of peace	504
34.	Do.	Punishment for criminal intimidation, etc.	506
35.	Do.	Uttering any word or making any gesture intended to insult the modesty of a woman.	509
36.	Do.	Misconduct in public by a drunken person	510
37.	The Vaccination Act, 1880 (Act XIII of 1880).	Punishment of offences covered by clauses (a), (b) and (d) of section 22.	22 except clause 'c'.
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47.	Do.	Penalty for permitting diseased animals to go at large or to die in public places.	7
48.	Offences under this Act or under any rule or bye-laws made thereunder.		

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(See Section)

	Description of suits	Period of limitation	Time from which period begins to run
1.	For money due on a contract .	Three years	When the money became due to the plaintiff.
2.	For the recovery of movable property or the value thereof.	Do.	When the plaintiff became entitled to the delivery of the movable property.
3.	For compensation for wrongfully taking or injuring a movable property.	Do.	When the movable property was wrongfully taken or when injury was done to it.
4.	For damages caused by cattle trespass.	One year	When the damage was caused by the cattle trespass.

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